Supreme Court, U.S.
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No. 06-

IN THE

Supreme Court of the United States

RONALD W. PARKINSON,
Petitioner,

v.

SOMERFORD CORP., ANNAPOLIS HERITAGE PARTNERS, MELISSA STEWART *et al.*,
Respondents.

On Petition for Writ of Certiorari to the Court of Appeals of Maryland

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PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the court of appeals of Maryland erred in affirming circuit's judgment for summary judgment when the judgment is in conflict with the due process clause of the fourteenth amendment to the constitution of the United States, section 1 nor deny to any person within its jurisdiction the equal protection of the laws.

2. Comment: anyone born or naturalized in the United States is a citizen. All citizens are entitled to due process (basic fairness) according to the constitution and bill of rights. Laws must be enacted and enforced in a way that treat people equally.

3. Did the court unreasonably infringe upon the rights, privileges and immunities guaranteed to Parkinson under the U.S. Constitution and Maryland constitution, declaration of rights.

4. Did the court block all access to discovery for over two years by petitioner.

5. Did respondents block all access to a dying mother to see her son the last nine month of her life.

6. Did respondents block all access to petitioner a son from seeing his dying mother the last nine month of her life.

LIST OF INTERESTED PARTIES

The counsel of record certifies that the following listed persons and corporations have an interest in the outcome of this case. Each of the parties were petitioner and respondents in the Circuit Court, Court of Special Appeals and Court of Appeals.

1. Ronald W. Parkinson, Petitioner
2. Somerford Corp. Respondent:
3. Annapolis Heritage Partners: Respondent:
4. Melissa Stewart et al., Respondents
5. Dale K. Cathell, Attorney for Respondents

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JUSTICE

False witnesses Proverbs 12:17

A truthful witness gives honest testimony, but a false witness tells lies.

A truthful witness does not deceive, but a false witness pours out lies.

A truthful witness saves lives, but a false witness is deceitful.

A false witness will not go unpunished, and he who pours out lies will perish.

A corrupt witness mocks at justice, and the mouth of the wicked gulps down evil.

A false witness will perish, and whoever listens to him will be destroyed forever.

Like a club or a sword or sharp arrow is a man who gives false testimony against his neighbor.

Isaiah 1:17

Learn to do right seek justice, encourage the oppressed. Defend the cause of the fatherless, plead the case of the widow.

Liviticus 19:15

Do not prevent justice; do not show partiality to the poor or favoritism to the great, but judge your neighbor. Fairly.

Proverbs 31:8-0

Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy.

Revelation 19:2

For true and just are god's judgments.

Deuteronomy 16:18

Appoint judges and officials for each of your tribes in every town the lord your god is giving you, and they shall judge the people fairly.

Deuteronomy 5:20

You shall not give false testimony against your neighbor.

Ninth commandment; thou shall not bear false witness.

The truthfulness of those who would testify against others is so central to honesty and justice that it is required as one of the ten basic commandments.

UNITED STATES CONSTITUTION

BILL OF RIGHTS

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 14

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction there, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Comment: anyone born or naturalized in the United States is a citizen. All citizens are entitled to due process (basic fairness), according to the constitution and Bill of Rights. Laws must be enacted and enforced in a way that treats people equally.

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PETITION FOR WRIT OF CERTIORARI

PETITION FOR WRIT OF CERTIORARI TO THE MARYLAND COURT OF APPEALS

Petitioner, Ronald W. Parkinson, respectfully request that this Court grant a Writ of Certiorari to review the judgment of the Court of Appeals of Maryland in this case.

COURSE OF PROCEEDINGS AND DISPOSITION OF THE CASE BELOW

This case was originally filed in the Circuit Court for Anne Arundel County alleging claims infringes upon the rights, privileges and immunities guaranteed to Parkinson under his United States and Maryland Constitutional Rights under Amendment I, IV, V, VI, VII, VIII, IX, XIV presenting matters of federal question jurisdiction pursuant to 28 U.S.C.

& 1331. Parkinson also had brought common law claims of intentional infliction of emotional distress and invasion of privacy violation of circuit court order and violation of patients Bill of Rights against Somerford Corp., Annapolis Heritage Partners, Melissa Stewart *et al.* The defendants moved for summary judgment. The motion was granted.

Petitioner timely filed a Petition for Appeal to Court of Special Appeals and Court of Appeals. The Court of Appeals issued its unpublished decision petition be denied.

A Petition for Writ of Certiorari has been timely filed, pursuant to Rule 13 of Rules of the United States Supreme Court, within 90 days after the entry of judgment.

JURISDICTION

This case was originally filed in the Circuit Court for Anne Arundel Country alleging claims under Amendment I, IV, V, VI, VII, IX, XIV of the United States Constitution. Presenting matters of federal question jurisdiction pursuant to 28 U.S.C. & 1331. Parkinson also brought common law claims of intentional infliction of emotional distress, invasion of privacy, violation of circuit order, violation of Comar. The Court of Appeals had jurisdiction had jurisdiction over the original appeal pursuant to 28 U.S.C. & 1291 and 1294. The jurisdiction to grant, or deny, a rehearing en banc pursuant to federal rule of appellate procedure 35. The jurisdiction of this honorable court is invoked under 28 U.S.C. & 1254(a).

STATUTORY AND REGULATORY PROVISION INVOLVED

This appeal addresses the claim with which the respondent has prevailed in the proceeding thus far, violating the rights, privileges and immunities guaranteed to Parkinson under the United States Constitution and Maryland Constitution.

1

If the Honorable Court would take time and look at the pictures of petitioner mother Ethel E. Parkinson and the bloody and abused and neglected body at the hands of respondents.

2

If the Honorable Court would look at just some of the uniforms Ether E. Parkinson family and petitioner wore over the past 100 years and still defending and serving this country in Africa, Sicily, England, Normandy d-day, World War II, Vietnam, Korea, Germany, New York on 9-11 and now Iraq.

3

If the Honorable Court would take a minute and think of their grandmother, mother, wife, children, grandchildren and future generations and ask could this happen to my family by a heavy handed tyrant.

4

If the Honorable Court would read each of the violations and table of authorities.

5

The basic unit of any society is the home, when the home begins to break, the society is on the way to disintegration and could ultimately lead to the destruction of our civilization.

REASONS FOR GRANTING THE WRIT

The central issue here is whether petitioner Ronald W. Parkinson and his mother Ethel E. Parkinson's United States Constitution Rights were violated and denied. Were his I, IV, V, VII, VIII, IX, XIV denied without due process and equal protection of law (basic fairness)? Were they discriminated against for asking for medical help?

That failure to afford the Parkinson family their god-given rights and constitution rights. They have enforceable rights and duties to visit, companionship, right to care, custody, management. The individual has certain fundamental rights which must be respected.

If the court is allowed to see his children, grandchilden, wife, family and everyone in this country is allowed to visit their family, petitioner and mother are guaranteed same rights under U.S. Constitution and Maryland Constitution, the U.S. Constitution protects citizens against unreasonable or arbitrary discrimination.

Letter from Somerford Margie Cotterman, RSC "I said I was joining the conversation and just remained standing there. Complaint and evidence clearly states this unreasonable eavesdropping went on for over two years.

Keeping a dying mother from her son and a son from his dying mother can only be compared to Iraq now and Auschwitz during the holocaust.

For the foregoing reasons, Ronald W. Parkinson respectfully submits the decision in the Court of Appeals of Maryland was in error and is contravention to establish precedent of the United States Supreme Court and the Court of Appeals of Maryland. Petitioner respectfully requests that certiorari be granted.

STATEMENT OF THE CASE

This appeal challenges the opinion and order made by the Anne Arundel County Circuit Court on May 24, 2006. The trial court erred as a matter of law. First the appellee's infringes upon the rights, privileges and immunities guaranteed to Parkinson under the United States Constitution and Maryland Constitution, Declaration of Rights than lower court. Deprived Mr. Parkinson of the rights, privileges and immunities guaranteed to Parkinson under amendment I, IV, V, VI, IX, XIV of the United States Constitution and deprived Mr. Parkinson of the rights, privileges and

immunities guaranteed to Parkinson under articles 2, 5, 13, 19, 20, 21, 23, 24, 40, 45 of the Maryland Constitution, Declaration of Rights.

Mr. Parkinson respectfully appeals the trial court' opinion and order as it unreasonably infringes upon the rights, privileges and immunities guaranteed to Parkinson under the United States Constitution and Maryland Constitution, Declaration of Rights. The authority of this Honorable Court to consider this legal issue on appeal rests under Md. Rule 8-201.

STATEMENT OF FACTS

On Friday September 17, 2004 at 5 pm appellant went to visit and feed his mother dinner at Somerford Place the assisted living facility owned and operated by Annapolis Heritage Partners, LLC and Somerford Corporation. Appellant mother bedroom door was locked and appellant ask caregiver if she knew where his mother was? Caregiver said no but I will help you find her. She was in Stone Harbor in another residents room, caregiver brought her out with a 2" cut just below her right elbow. Bleeding, blood running down arm to hand and dripping off her fingers. Son asked can we fix that. Caregiver said we would take her to the nurse for bandage. Nurse Margie Cotterman was reading a book in her office. Nurse got up and looked at appellant's mother arm and said they can bandage it when they come around to give medicine. She went back in the nurse's office and sat down reading her book. Refused to bandage or give medical care to appellant's bleeding mother. 5:15 and 5:30 pm arm still bleeding I ask if someone was going to take care of her arm. I was told when they come around to do medicine. At 6 pm I ask caregiver again when are they going to fix her arm. Told when they give meds. 6:30 pm 1½ hours later Tracie cleaned and bandage arm in tv room.

September 20, 2004 appellant received a registered letter from appellee's stating effective immediately appellant is

denied all access to his mother or enter upon the ground of Somerford Place and entry on property will be treated as a trespass and authorities would be contacted. Appellant did not commit any crime or break any law all he ask for was medical attention for his bleeding mother. And for this appellee's blocked all access to his mother. Appellant a son was not allowed to see his dying mother the last nine month of her life a dying mother was not allowed to see her son the last nine month of her life.

ARGUMENT

On Aug. 7, 2002 appellant Sister Rita Ormand ask our family if she could take our mother and get her hair done. Her three son's and daughter in-law had been staying with her since her husband died in June 2002. Our sister met with the appellee's in secret in July to arrange to have our mother locked up at the assisted living facility Somerford Place owned and operated by the appellee's Somerford Corporation and Annapolis Heritage Partners. They had our mother sign a new power of attorney without her three son's knowledge and appellant was her power of attorney and power of attorney for their father's and personal representative for their father's estate. Our mother has had dementia since 1998 and had no knowledge of what she was signing. Ms. Ormond did not bring our mother home and refused to tell the family where she was. Appellee's were holding her against her will and the will of her family. It took the family three days to find her. Calling every nursing home and assisted living home they could find. When appellant his brother and sister-in-law found her at Somerford Place. Appellee's told US Dept of Aging said we could not take our mother home. Appellee's told us we had to leave in less than ten minute and not to come back for three days. When we came back they told us we had to leave again in less than ten minutes. They the next day in less than ten minutes. This continued until appellant refused to leave in ten minutes. Before appellant had even

met appellee's they were calling around to state agencies trying to get them to restrict or have no visits for appellant and his mother: Appellee's were warned many times over two years about restricting or trying to deny visits from a appellant and his mother. We were not allowed to bring our mother home for Christmas, Thanksgiving, Easter, Birthdays, visits or anything. Appellee's would follow Parkinson and mother for over two years eavesdropping on every word of their conversations they were warned many times about this invasion of privacy. September 20, 2004 appellant received a registered letter from appellee's stating effective immediately appellant was denied all access to his mother. Appellant was not allowed to see his dying mother the last nine month of her life. A dying mother was not allowed to see her son the last nine month of her life.

God, the Bible, the United States Constitution, Maryland Constitution, Declaration of Rights give the citizen of the United States certain basic rights which may not be taken away by personal, political economic views or manipulated to serve any agenda. Each of these right will follow: U.S. Constitution Amend VII provides; in suits at common law, where the value in controversy shall exceed twenty dollars; the right of trial by jury shall be preserved, Md. Constitution Decl. of Rights Art. 5: that the inhabitants of Maryland are entitled to the common law of England and a trial by jury: Md. Decl. of Rights Art. 23 the right of trial by jury of all issues of fact in civil proceeding in the several courts of law in this state, where the amount in controversy exceeds the sum of $10,000.00 shall be inviolable preserved: U.S. Constitution Amend I Congress shall make no law abridging the right of the people to peaceably to assemble, congress shall make no law abridging the freedom of speech, and to petition the government for redress of grievances. Md. Constitution Decl. of Rights Art. 40 provides in pertinent part; that every citizen of the state ought to be allowed to speak, write and publish his sentiments on all subjects, Md.

Constitution Decl. of Rights Art 13 that every man hath a right to petition for redress of grievances, U.S. Constitution Amend XIV "no state shall make or enforce any law which shall abridge the immunities of citizens of the United States, no state shall deprive any person of life, liberty, or property, without due process: U.S. Constitution Amend V provides no person shall be deprived of life, liberty, or property without due process of law: Md.

Constitution Decl. of Rights Art 19 provides: that every man, for any injury done to him, in his person, or property, ought to have remedy by the course of the law of the land, and ought to have justice and rights, freely without sale, fully without any denial, and speedily without delay, according to the law of the land; Md. Constitution Decl. of Rights Art. 20 that the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the people: Md. Constitution Decl. of Rights Art. 23 provides: that no man ought to be taken or imprisoned or seized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner, destroyed, or deprived of his life, liberty, or property, but by judgment of his peers or law of the land, U.S. Constitution Amend IX provides: the enumeration in the Constitution, of certain rights, shall not be constructed to deny or disparage other retained by the people. Md. Constitution, Decl. of Rights Art 45 provides: this enumeration of rights, shall not be constructed to impair or deny other retained by the people.

VIOLATION OF THE UNITED STATES CONSTITUTION

Fundamental to the rule of law in the United States is the role of the judiciary in enforcing the individual rights and liberties guaranteed by our Constitution.

President Lincoln said the Constitution "must be maintained, for it is the only safeguard of our liberties".

General Robert E. Lee said "do your duty in all things, you cannot do more. You should not do less.

Mexican president Benito Jur'ez says respect for the rights of others is peace.

See App. F.

It is the principle that certain fundamental rights, in which every citizen is entitled, must be placed outside the reach of corrupt and evil people. That is the purpose of our bill of rights.

It the Bill of Rights, the framers build a wall around certain fundamental individual freedoms, forever limiting the majority ability to intrude upon them.

The Bill of Rights does not request the government afford the people certain freedoms: it demands it. *See* App. A.

It declares that they exist as a matter of natural law, and the government has no authority to interfere with their exercise. This strong language serves to purpose it inspires and reassures those of us who hold the rights, and it warns any who dare violate these rights that they may not do so.

The integrity of the family unit has found protection in the due process clause of the fourteenth amendment, *Myers v. Nebraska*, *supra*, 262 U.S. 390, 399 (1923), the right to conceive and to raise one's children have been deemed "essential", the equal protection clause of the Fourteenth Amendment, "basic civil rights of man" *Skinner v. Oklahoma* 316 U.S. 535, *supra*, at 541 (1942) and rights far more precious. . . Than property rights," *May v. Anderson*, 345 U.S. 528, 533 (1953) "it is cardinal with us that the custody care and nurture of the child reside first in the parents, whose primary function and freedom include.

Preparation for obligation the state can neither supply nor hinder." *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) and the Ninth Amendment, *Griswold v. Connecticut*, 381 U.S. 479, 496 (1965) (Goldberg, J., concurring. *Stanley v.*

Illinois 405 U.S. Supreme Court Justice Brennan, Stewart, and Marshall, Blackman, Burger, C.J., Mr. Justice White delivered the opinion of the court.

We conclude that, as a matter of due process of law, Stanley was entitled to a hearing on his fitness as a parent before his children were taken from him and that, by denying him a hearing and extending it to all other parents, the state denied Staley the equal protection of the law guaranteed by the Fourteenth Amendment.

The private interest here, that of a man in the children he had sired and raised, undeniably warrants deference and, absent a power countervailing interest, protection. It is plain that the interest of a companionship, care custody, and management of his children. *Goldberg v. Kelly*, 397 U.S. 254, 263 (1970).

Supreme Court Justice Scalia's opinion "in my view, a right of parents to direct the upbringing of their children is among the "unalienable rights" with which the declaration of independence proclaims "all men. . . Are endowed by the creator", that the state has no power to interfere with parent's authority over rearing of their children, I do believe that the power which the constitution confers upon me as a judge, entitles me to deny legal effect to law that (in my view) infringe upon what is an unenumerated [unalienable] right.

Chief Justice Fuller court, *Muller v. State of Oregon*, the Supreme Court ruled and said "as healthy mothers are essential to vigorous offspring, the physical well-being of woman is an object of public interest.

Justice Louis Brandeis—believed in using the law to protect the powerless from the powerful. *See* foldouts of Ethel Parkinson abused bloody body.

Justice William H. Rehnquist—the government of the United States has been termed a government of laws, and not of man. It will certainly cease to deserve this high appellation, if the law furnish no remedy for violation of a vested legal right.

Bell v. Burson, 402 U.S. 535 Pp. 647-658 the denial of Unwed fathers of a hearing on fitness accorded to all other parents who custody of their children is challenged by State Constitutes a denial of equal protection of the law, p. 668, *Elona v. American Guarantee Co.*, 391 U.S. 73, 75-76 (1968) for the equal protection clause necessarily limits the authority of a state to draw such 'Legal' lines as it chooses, *Levy v. Louisiana*, 391 U.S. 68, 71-72 (1968) to say that the test of equal protection should be the legal rather than the biological relationship is to avoid the issue.

Supreme Court Justice Bradley wrote man is, or should be, woman's protector and defender.

Woman is still regarded as the center of home and family life. The treatment of woman in a society is a critical measure of that civilization.

Judge Learned Hand-liberty lies in the hearts of man and woman; when it dies there, no constitution, no law, no court can save it; no constitution, no court, no law can even do much to help it. While it lies there it needs no constitution, no law, no court to save it.

It took a civil war and the adoption of the thirteenth, fourteenth, fifteenth amendment to begin the process of assuring equal justice under the law.

Justice O'Connor said I believe deeply that the right to trial by jury is fundamental to our system of justice, to preserve the institution of jury.

The declaration of independence listed deprivation of "the benefits of trial by jury" as one of the intolerable outrages that King George committed against the colonists.

Equal justice under the law—not just for the wealthy but the poor, the disadvantage.

JUSTICE SANDRA DAY O'CONNOR

"Our reliance is in the love of liberty which god has planted in our bossoms, our defense is in the preservation of

the spirit which prizes liberty of all men, in all lands, everywhere, destroy this spirit, and you have planted the seed of despotism around your own door. Familiarize with the chains of bondage, and you are preparing your own limbs to wear them. Accustomed to trample on the rights of those around you, you have lost the genius of your own independence, and become the fit subject of the first cunning tyrant who rises".

VIOLATION OF "THE PATIENTS BILL OF RIGHTS" 42 U.S.C. & 1396(R) AND VIOLATION OF COMAR & 10.07.26 AND .26 A2 .26 RESIDENT'S RIGHTS.

A resident of an assisted living program has the right to: receive treatment, care, and service that are adequate, appropriate, and in compliance with relevant state, local, and federal laws and regulation. *See* App. D fold-ins and App. J state of Maryland DHMH report.

In a 1966 study, conducted at the request of congress, the institute of medicine found the residents of nursing homes were being abused, neglected, and given inadequate care. *See* (App. 1-6 and (App. D fold-ins and App. J DHMH report) the institution of medicine proposed sweeping reform of which became law in 1987 with the passage of the Nursing Home Reform Act, Part of the Reconciliation Act of 1987. And "the patients bill of rights". Each state have recognized the patients bill of right and have adopted their own state "state bill of rights' *see* (App. AA, BB, CC, DD, EE, FF, GG, HH). Many courts have recognized these rights. See there is no question that the primary, perhaps the only, issue pertinent to the question of whether a private cause of may be based upon the breach of a statute is whether the legislature intended that to be the case. *Murthy v. Sinha Corp.*, 644 So.2d 983 (Fla. 1994); *see Stone v Wall*, 734 So.2d. 1038, 1041 (Fla 1999) [24 FLW §§ 283, 285]. In this instance, it has clearly answered that question in the affirmative. Section 393. 13(5) provides; liability for violations. ((quoting *Baumstein v Sun-rise Com-*

munity, Inc., 738 So.2d 420, 87 A.L.R. 5th 763. Any person who violates or abuses any rights or privileges of persons provided by this act shall be liable for damages as determined by law. The statue could hardly be clearer. While courts have recognized the cause of action, *see State v. Dugan*, 685 So.2d 1210 (Fla. 1996), we hold that civil liability for damages indeed arises from violations of chapter 393.

See Stone v. Wall, cite as 734 So.2d. 1038 (Fla. 1999). It would be a violative of constitutional equal protection issue not to recognize the equal rights of parent and child allowing either a cause of action or an element of damage.

See Gates, 274 So.2d at 43.the courts has consistently recognized that the parent-child relationship has fundamental constitution significance. *See Von Eiff v. Azicri*, 720 So.2d 510, 513 (Fla.1998).

See Beverly Enterprises-Florida v. Spilman, cite as 661 So.2d 867 (Fla. App. Dist 1995) any resident whose rights are deprived or infringed upon shall have a cause of action against any licensee responsible for the violation. The action may be brought by the resident or his guardian, by a person or organization action on behalf of a resident.

Tort law has long protected "relational" interest, such as those between family members, from interference. *See Keeton, supra*, & 124, at 915. In *Wilkie v. Roberts*, 91 Fla.1064, 1068, 109 So.225, 227 (1996) this court held that a wrongful injury to the child gave rise to a common law cause of action, companionship are valuable rights, court acknowledge that this right to recovery damages, including those loss of companionship and society, resulting in wrongful injury to family.

Dempsey, 635 So.2d. At 964-65 courts held the policy that family relationships are to be protected and recovery allowed for losses resulting from wrongful injuries that adversely affect those relationships. More enlightened and realistic of role of children in their parent's lives. *See Dempsey*, 635 So.3d.at 964.

We find that the parent-child relationship should be entitled to no less legally recognized protection from unreasonable interference, especially given the fundamental constitutional significance of the parent-child relationship.

Greenfield v. Manor Care, Inc., 705 So. 2d 926 (Fla. App. 4 dist., 1977) complaint should not be dismissed for failure to state cause of action unless movant cal establish beyond any doubt that claimant could prove no set of facts whatever in support of his claim (citing *Martin v.Highway Equip. Supply Co.*, 172 So. 2d 246 (Fla. 2d DLA 1965).

In our system of justice, it is no person, mother, father, president or pauper stands above the law. And our courts must be constantly vigilant to guard against the misuse of the legal process, those who would bypass the legal system by depriving a parent and child a relationship that recognized protection from unreasonable interference, especially given the fundamental constitutional significance of the parent-child relationship.

INVASION OF PRIVACY

It is "no longer open to question that the right of privacy is protected by the federal constitution." the right to privacy is one of the most cherished of all human rights. The landmark 1965 Supreme Court case *Griswold v. Connecticut.* Justice William O. Douglas, writing for the Supreme Court, declared that the right to privacy was actually older than the U.S. Constitution, that it was part of the "natural right" of the individual. He said that such a right did in fact exist in the "shadows" and "penumbras" of the bill of rights. *See* App. F.

The bible says "their own word's will betray them." *See* App. G Melissa Stewart said "he takes her someplace quit where he can visit with her out in front of maybe one of the neighborhoods and sits in the rockers. And they sit there and he talks to her." *see* App. E December 31, 2002 Somerford Margie Cotterman, RSC. Ronald Parkinson was visiting with

his mother he, was seated in a rocker, with his mother holding his mother's hand. I said I was joining the conversation and just remained standing by the mailbox. *See* App. H letter to Somerford from Parkinson counsel Cawood & Kelly, my client has informed me that your staff has been singling him out during his visits with his mother and making such visits awkward by eavesdropping on their conversation and entering Mrs. Parkinson room under pretext when he visiting her. This activity need to cease at once as it is infringing on their right to privacy.

"In a democratic society privacy of communication is essential if citizens are to think and act creatively and constructively, fear or suspicion that one's speech is being monitored by a stranger even without the reality of such activity, can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas."

The disclosure of the contents of a private conversation can be even greater intrusion of privacy than the interception itself. There is a valid independent justification for prohibiting such disclosures by person illegally intercepted message. Mr. Parkinson was his fathers personal representative and power of attorney, and power of attorney and legal representative for his mother. *See* App. N, O, P and had a expectation of privacy from in unreasonable intrusion into the private communications and information, personnel and privileged communication, confidential and restricted information and communication guaranteed by federal, state and local law, the right to be left alone, the most comprehensive of rights, and most values by civilized men, to protect that right, every unjustifiable intrusion upon the privacy of the individual must be deemed a violation of the fourth amendment. *Miranda v. Arizona.*

Ninth amendment provides that the rights enumerated in the Bill of Rights are not the only rights possessed by the people, probably the most famous example of an unenumer-

ated right is the right to privacy in *Griswold v. Connecticut*, the court held that the constitution protects a right to privacy, such rights do exist. Supreme Court Justice Blackmun in *Roe v. Wade*, the right to privacy, founded in the fourteenth amendment's concept of personal liberty.

A host of privacy right decisions followed the Griswold case, culminating in the landmark 1973 U.S. Supreme Court decision *Roe v Wade*. Samuel Warren and Louis Brandeis "the right to privacy" in the Harvard Law Review. As Warren and Brandeis wrote, individuals have a right "to be let alone". Following appellant and his mother for over two years and singling him out during visits with his mother and eavesdropping on every conversation and entering Mrs. Parkinson's room under pretext when he is visiting her. Appellee's were warned many times that this activity need to cease at once as it infringing on there right to privacy. App. H, I and F appellee's letter threatening to bar Mr. Parkinson only access to his mother unless he "immediately stop all communications with residents, other than (his) mother. Infringing on his amendment right to free speech and association. The legal system in this country protects a private citizen's right to privacy.

In Maryland it has long been held the right of privacy is protected by the Federal Constitution and State Constitution. *Bailer v. Erie Ins. Exch.*, Md. 578, 177 a. 2d 841 (1997) citing *Carr v. Watkins*, 227 Md. 578, 177 a. 2d 841 (1962) *Lawrence v. A.S. Abell Co.*, 299 Md. 697, 475 a. 2d 448 (1984) *Trundle v. Homeside Lending, Inc.*, 162 F. Supp. 2d 396 d. Md. 2001) *New Summit Assocs. Ltd. P'ship. v. Nistle*, 73 Md. App. 351, 533 a 2d. 1350 (1987) MPJI-CV 25:1 *see* Richard J. Gilbert & Paul T. Gilbert, Maryland Tort Law Handbook Ch. 15 (Lexis 3d ed. 2005).

Appellee's have not presented any Maryland case that has held as a matter of law that unreasonable surveillance and eavesdropping of petitioner was not highly offensive. There-

fore, it is an issue of fact for the fact finder the jury to determine whether this conduct is unreasonable, intentional, and highly offensive and is not appropriate for a motion to dismiss.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Respondents kept a dying mother a U.S. citizen from seeing her son a 82nd Airborne Paratrooper and veteran, a Maryland State Police Officer and a Medical profession *see* App. fold-in the last nine month of her life from September 20, 2004 thru May 18, 2005 the day of her death. 1. Extreme and outrageous, 2. *See* App. D fold-ins Ethel Parkinson, App. J, DHMH report and App. 1 Dept. of aging report dated August 8, 2002 10 month before guardianship proceeding. This worker advised Ms. Stewart that restricting visitors access to residents is walking a fine line in terms of residents rights. Ms. Stewart asked this worker if Ms. Ormond not the guardian could put a request for supervised visits or no visits in writing. This was three days before petitioner had found his mother at Somerford and three days before Petitioner has ever met Ms. Stewart or respondents. 3. Intentional *see* App. H letter from Cawood & Kelly dated Sept. 3, 2003 threatens to bar only access to his mother. Singling him out and eavesdropping on their conversation it is infringing on their right to privacy. Infringe on right to free speech intentional and reckless. *See* App. I letter from Stahl & Block dated November 2, 2004 Ms. Stewart said petitioner could no longer visit his mother, two years history of threatening petitioner, intentional, reckless and extreme and outrageous. Petitioner has had to be placed on prescribed pills from his physician for nausea, migraine's and insomnia. 4. There must be a causal connection between the wrongful conduct and emotional distress. Respondent would have the court believe falsely imprisoned a sixteen year old boy for stolen money is the same. He is asking the court to compare apple's and oranges and silver and gold they are not the same.

Respondents would have the court believe a paper cut is the same as having your legs blown off with a land mine or closing your eyes for a second is the same as being blind or detaining a kid after school is the same as making our mother a prisoner in prison without visitors for life. 5. Emotional distress must be severe. Each element fled and proved with specificity. *See Stanley v. Illinois*, 405 U.S. Supreme Court Justice White, J., Brennan, Stewart, Marshall, JJ., Douglas J., Burger, C.J. Opinion under the due process clause of the Fourteenth Amendment petitioner was entitled to a hearing on his fitness as a parent before his children were taken from him, and by denying him a hearing and extending it to all other parents denied Stanley the equal protection of the law guaranteed by the Fourteenth Amendment. Pp. 647-658 reversed and remanded.

Respondent unreasonably infringes upon the rights, privileges and immunities guaranteed to Parkinson under the U.S. Constitution and Maryland Constitution, Declaration of Rights Maryland law has long recognized the tort intentional infliction of emotional distress. Illustrative cases and authority in which the tort was proved include: *B.N. v. KK*, 312 Md. 135, 538 A. 2d.1175 (1988); *Reagan v. Rider*, 70 Md. App. 503, 521 A 2d. 1246 (1987); *Moniodis v. Cook*, 64 Md. App. 1, 494 A. 2d 212, 304 Md. 631, 500 A. 2d. 649 (1985); *Young v. Hartford Acc. & Indem.*, Md. 303 Md. 182, 492 a. 2d 1270 (1985); *Ford v. Douglas*, 144, 144 Md. App. 620 (2002). *See* App. F.

The tort intentional infliction of emotional distress involves the causing of severe metal distress to another by one who engages in extremely outrageous and intentional conduct *see* MPH-CV 15: 11.

The conduct of the defendant's was malicious, willful, and intentional as a result of the a fore said conduct and action, the petitioner has suffered, and will continue to suffer, severe and extreme emotional distress. Petitioner has been placed on prescription medication for migraines, nausea, and insomnia.

Appellee's have not presented any Maryland case that has held as a matter of law that keeping a dying mother from her son and a son from his dying mother the last nine month of her life is not highly offensive. Therefore, it is an issuer of fact for the fact finder the jury to determine whether this conduct is highly offensive and is not appropriate for a motion to dismiss. U.S. Constitution amend I, IV, V, VI, VII, VIII, IX, XIV, Md. Constitution Decl of Rights Art 5, 13, 19, 20, 23, 45.

VIOLATION OF FEDERAL AND STATE RULE'S OF PROCEDURE AND RULES EVIDENCE

The Supreme Court in *United States v. Nixon* from decision read by Chief Justice Burger: the allowance of the privilege to withhold evidence that is demonstrably relevant in a criminal trial would cut deeply into the guarantee of due process of law and gravely impair the basic function of the courts. The court ruled that no person, not even the president was above the law.

Federal and state rules of evidence and civil procedure two central aims of the rules are to ensure that due process of the law is served and that efficient use is made of judicial resources. The lower court has blocked all access to discovery for over two years by petitioner refused production of documents under federal rule 26 general provisions governing Discovery 26(a)(1)(e) Discovery Rule 34, or 45(a)(1)(c) and Maryland Rules of Civil Procedure Rule 2-401, Rule 2-402, Rule 2-421, Rule 2-501, Rule 2-432, Rule 2-433, Rule 2-422, section 4-306 of the health-general articles of Maryland annotated. The court has denied every request for production of document, request to Compell request for documents and quashed discovery subpoenas federal and state law of civil procedure and rules of evidence require discovery and punishment for refusing request for discovery.

Scheduling order dated February 7, 2005 signed by the honorable judge Pamela L. North. The deadline and dates set

forth are firm dates and may not be changed. Failure to comply with the provisions of this order may lead to the imposition of sanctions on the parties and/or their counsel, which may include dismissal, entry of default or monetary sanctions. Dispositive pretrial motions: 7/15/05 deadline to file any motions for summary judgment or other dispositive motions. Motion to dismiss complaint filed 7/18/05 filed after deadline. Hearing notice issued 7/21/05 after deadline. Hearing on motion to dismiss 9/13/05 two month after deadline. Motion to dismiss filed 10/11/05 three month after deadline. Motion to dismiss hearing filed 2/27/06 seven month after deadline. Motion to dismiss hearing 5/22/06 ten month after deadline.

Pretrial and settlement conference: *see* App. 11/02/05 pretrial and settlement conference to be held before a judge of the court, at 11:00 am. The attorneys who will actually try the case, all parties and insurance representatives with full authority to settle the case, shall be present at the pretrial conference. Trial on the merits: Trial shall be scheduled at the time of the pretrial/ settlement conference. In accordance with Md. Rule 16-202 the appellee's failed to show up at conference. The court stated all parties were at conference this is not a true statement. Only petitioner attended and the judge was very angry, rude and arrogant.

Petitioner asked him his name he said it was on the door. Petitioner asked for a court date he said no. Judge said all parties were present not true. *See* App. KK pretrial order.

In *Jones v. United States*, set the precedent that removing a jury's control over the fact's would violate the six Amendment.

In *Apprendi v. New Jersey*, the United States Supreme Court held that "any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt. *See* App. EE, Patient's Right to Visitors. Annotated Code of Maryland

Title 10 Subtitle 21 Chapter 09 Patient's Right to Visitors 10.21.09.08.

VIOLATION OF CIRCUIT COURT ORDER DATED APRIL 30, 2003

Court order signed April 30, 2003 by Circuit Court for Anne Arundel County, Judge Philip T. Caroom. Ordered that children of the disabled person shall be permitted to take the disabled person out of Somerford Place, the assisted living facility in which she resides, for brief periods for family visits. Ordered that the guardian shall permit all the children of the disabled person to have full access to the medical records of the disabled person. Contemp-willful disobedience or open disrespect of order, authority, or dignity of a court, or failure to obey the court's orders indirect contemp-contempt (as disobedience of a court order) that occurs outside the presence of the court. Federal and state law has long recognized the authority of a court order.

Respondent would have the court believe they were not parties to this court order. This is wrong. Respondent met in secret with Ms. Ormond one year before guardianship proceeding to make arrangement to take advantage of a disabled elderly person have her sign complex legal papers taking away her freedom and imprisoning her for the rest of her life against her will. And the will of her power of attorney and family. *See* App. M Karen S. Kauffman in-home report dated July, 31, 2002 one year before guardianship proceeding. Impression: Mrs. Parkinson has moderate-advanced dementia probably of a vascular type, and requires 24-hours supervision and care *see* App. D pictures of Ethel Parkinson. It is my professional opinion that she is neither capable of understanding complex legal issues nor the significance of her signature on any legal papers. *See* App. II. Rita Ormond answers to interrogatories one year before guardian proceeding. Rita Ormond admits that, upon the advise of the executive director of Somerford Place, Melissa Stewart not to

allow anyone to remove Ethel Parkinson from Somerford. *See* App. L Dept. of Aging report dated August 8, 2002 Ms. Ormond had Ms. Parkinson rescind a POA document appointing Ronald W. Parkinson and sign a new POA document appoint her alone. *See* App. Q medical power of attorney dated July 20, 2002 this worker warned her that due to diagnoses, one could contest that she was not able to understand. It was not Ms Ormord who told us we could not every bring our mother home it was respondents. Even after ten month before the guardianship proceeding respondents would not let Ms. Parkinson family bring her home for anything, Christmas, Thanksgivings, Birthdays, weekends, visits or anything even with petitioner being her power of attorney and both U.S. citizen. There would not have been a guardianship proceeding if respondent's had not falsely imprisoned Ms. Parkinson. Even after the court order dated April 30, 2003 *see* App. II directing Somerford to permit Ms. Parkinson to go home for family visits respondent still refused, druging her so bad petitioner could not even wake her to feed her than blocking all access to his mother completely. Petitioner would go and feed his mother each day, when respondents blocked all access, she lost 55 lbs and died.

Appellee's have not presented any Maryland case that has held as a matter of law that people and corporations named in a court order are not part of that court order or are exempt from that court order. Therefore, it is an issuer of fact for the fact finder the jury to determine whether this court order applied to the respondent's.

CONCLUSION

This case is not about money. It is about what America has become. When you say a U.S citizen a dying mother cannot see her son the last nine month of her life we say you are wrong.

When you say a mother and her family who has defended and served this country for over 100 years cannot face the

heavy handed tyrant that blooded abused, neglected their mother in a court of law we say you are wrong.

When the court says I can go home and see my family today and every day and every other person in this country can see there family's but your mother, a Sunday school teacher all her life, a wife of a man who served this country in WWII, Africa, Sicily, England Normandy, D-Day. Her sons who served in Vietnam, Korea, Germany, her grandson and granddaughter who served in New York on 9-11 and Iraq we say you are wrong.

When you say a 82nd Airborne Paratrooper, a Maryland State Trooper, a medical profession cannot see his mother you are wrong.

When you say a family of four generation of veterans, professional firefighters, policemen and medical personal cannot stand in your courtroom, we say you are wrong.

When you say a court can block all access to discovery for over two years and lie about proceeding we say you are wrong.

This great country will soon have 300 million citizens some will die young, some in accidents and many in war. But many will grow old, weak and frail, they are easy targets for heavy handed tyrants and large corporation.

In over two years respondents have never said you can imprison our family's and beat them like they did to Ethel Parkinson, if they did they should be escorted from this country because they have no idea what god, country, family life means to a American.

When a man or woman put on the uniform of this great nation, they have earned the right to stand in any courtroom. God gave them that right, the United States constitution gave them that right our death, blood, burned bodies gave her that right and it will not be taken from us.

The basic unit of any society is the home, when heavy handed tyrants and large corporation try to break the family,

the society is on the way to disintegration and could ultimately lead to the destruction of our civilization.

Petitioner had a contract with god "The Ten Commandments" "Commandment V" "honor thy father and thy mother" Isaiah 1:17 plead the case of the widow.

Petitioner had a contract with country to defend against enemys foreign and domestic.

Petitioner had a contract with parents to take care of and protect them.

The court must look at Ethel Parkinson face the smile with her head on petitioner shoulder and hand around 82nd Airborne waist. The smile when she pinned the badge of a Maryland state trooper on his chest, then look at pictures of what respondent done to a U.S. citizen, our mother didn't die from dementia or old age, she died because respondents took every think she loved away family and life, liberty, and pursuit of happiness.

Rest apolitical system on an unstable foundation and it will crumble under pressure and fall away like sand, but build a system on solid stones, and will hold up and withstand the test of time.

Justice compels us to understand the rage, to feel the pain, to respond to the cries.

The Declaration of Independence speaks of inalienable God given rights, the abridgement of which permits revolution, which men have died for.

We must be wary of those who are willing to end the lives of the elderly and the ill.

We are the guardians of this country and have been for over 100 years and no heavy handed tryant is going to take that away.

It is justice that demands those who do evil against our society must be punished by our society.

The court must ask of this was my grandmother, mother, wife, children, or anyone else do I understand the rage, feel the pain.

The court must ask what kind of world I would like to leave to my children and grandchildren future generation.

The only thing necessary for the triumph of evil is for good men to do nothing.

Justice Thurgood Marshall U.S. Supreme Court said "we must never forget that the only real source of power that we as judges can tap is the respect of the people".

John F. Kennedy, 1962 this country does not forget God or the soldier. Upon both we now depend.

Respectfully submitted,

RONALD W. PARKINSON *
548 Rockwood Court
Annapolis, Maryland 21401
(410) 244-3982

* Counsel of Record

December 11, 2006

APPENDIX A

IN THE COURT OF APPEALS OF MARYLAND

Petition Docket No. 268
September Term, 2006

(No. 575, Sept. Term, 2006
Court of Special Appeals)

RONALD W. PARKINSON,

v.

SOMERFORD CORP., ANNAPOLIS HERITAGE PARTNERS,
MELISSA STEWART *et al.*

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals and the answer filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell
ROBERT M. BELL
Chief Judge

Judge Cathell did not participate in the consideration of this matter.

DATE: September 15, 2006

APPENDIX B

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

CASE NO. C-04-102234

RONALD W. PARKINSON,

Plaintiff,

v.

SOMERFORD CORPORATION, *et al.*

Defendant.

MEMORANDUM OPINION

The parties came before the Court as a result of the Plaintiff filing a Fourth Amended Complaint, almost identical to the Third Amended Complaint, which appears to be identical to those previously filed, The Defendants, in September of 2005, received an Order from this Court dated September 27, 2005, in which the Motion to Dismiss Third Amended Complaint was granted, and further, that the Third Amended Complaint was dismissed with prejudice as to all parties except Melissa Stewart. Again, the Plaintiff files the same action against the same Defendants, alleging the same causes of action, not only including Melissa Stewart, but including the same Defendants that were dismissed with prejudice earlier.

At this point, the Court reiterates its September 2005 Memorandum Opinion and Order, adopts same, and once again, dismisses, with prejudice, the Fourth Amended Complaint against all Defendants including Melissa Stewart.

There is no earthly reason why these matters are continually being filed by Mr. Parkinson. If Mr. Parkinson is dissatisfied with the decision of the Court, the proper redress

is to appeal same and not to continuously file amended complaints after they have been dismissed, with prejudice.

Further, there was a protective order filed in which a party asks they not be burdened with again providing to Mr. Parkinson "all documents kept in the normal course of business concerning Ethel E. Parkinson, date of birth 8/14/24". A subpoena exactly like this one was issued by this Court in February of 2003 and all records were supplied to Mr. Parkinson's then attorney. An affidavit filed by Melissa Medick, who is the long-terms care ombudsman with the Anne Arundel County Department of Aging, indicates all documents delivered to Plaintiffs counsel in 2003 are the same documents once again being requested. The Affidavit indicates "There are no additional documents contained in the files that were not included in the response provided to the January 2, 2003 subpoena issued *In the matter of Ethel E. Parkinson*, Case No. C-2002-83301." The Court will grant the protective order, one, because the documents have been provided, and two, because the issue is moot considering the fact the Court has, once again, dismissed, with prejudice, the Fourth Amended Complaint.

/s/ Joseph P. Manck
JOSEPH P. MANCK, Judge

Dated: 24th day of May, 2006

Copies to:

Ronald W. Parkinson
Dale K. Cathell

APPENDIX C

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

CASE NO. C-04-102234

RONALD W. PARKINSON,

Plaintiff,

v.

SOMERFORD CORPORATION, *et al.*

Defendant.

ORDER

The Court having considered Defendants' Motion to Dismiss the Fourth Amended Complaint and the Motion for Protective Order, it is this 24th day of May, 2006, by the Circuit Court for Anne Arundel County,

ORDERED, that the Motion to Dismiss Fourth Amended Complaint be and the same is hereby granted, with prejudice; and it is further

ORDERED, that the summons for records issued August 24, 2005 pertaining to and seeking "all records kept in the normal course of business pertaining to Ethel E. Parkinson, DOB 8/14/24, from the year 2000 to May 18, 2005" be and the same is hereby quashed, and the protective order is granted.

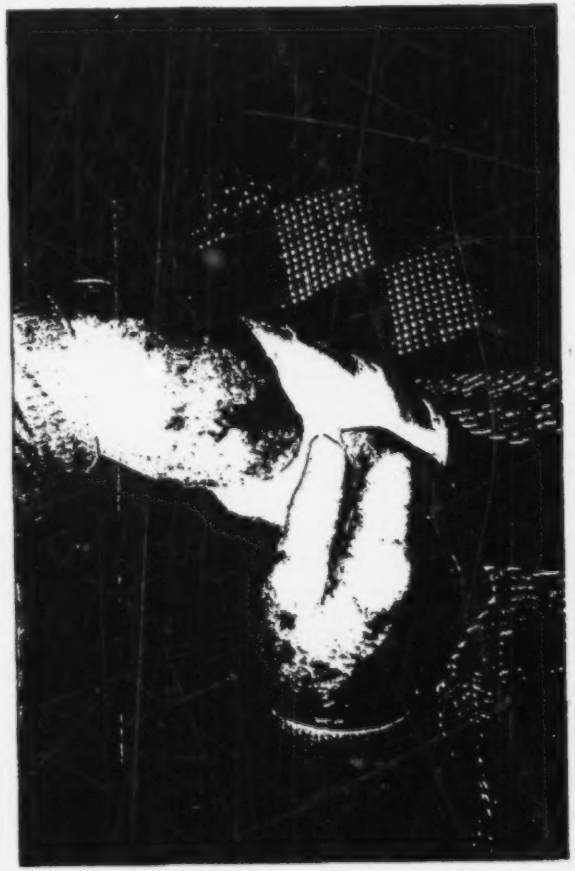
/s/ Joseph P. Manck
JOSEPH P. MANCK, Judge

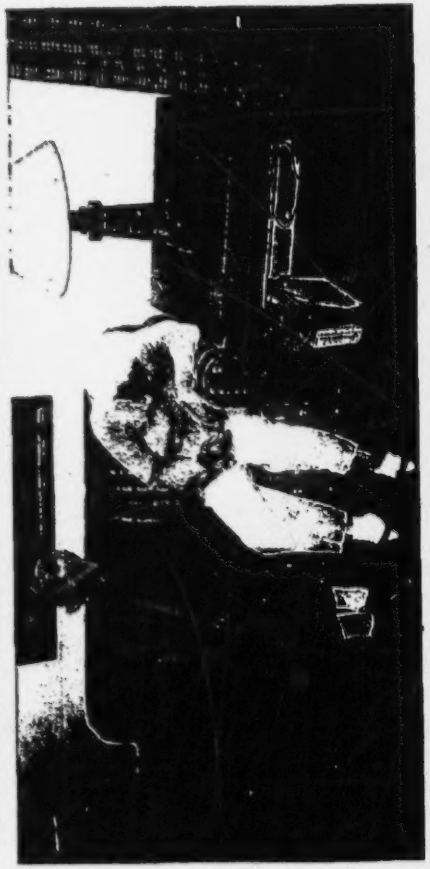
Copies to:

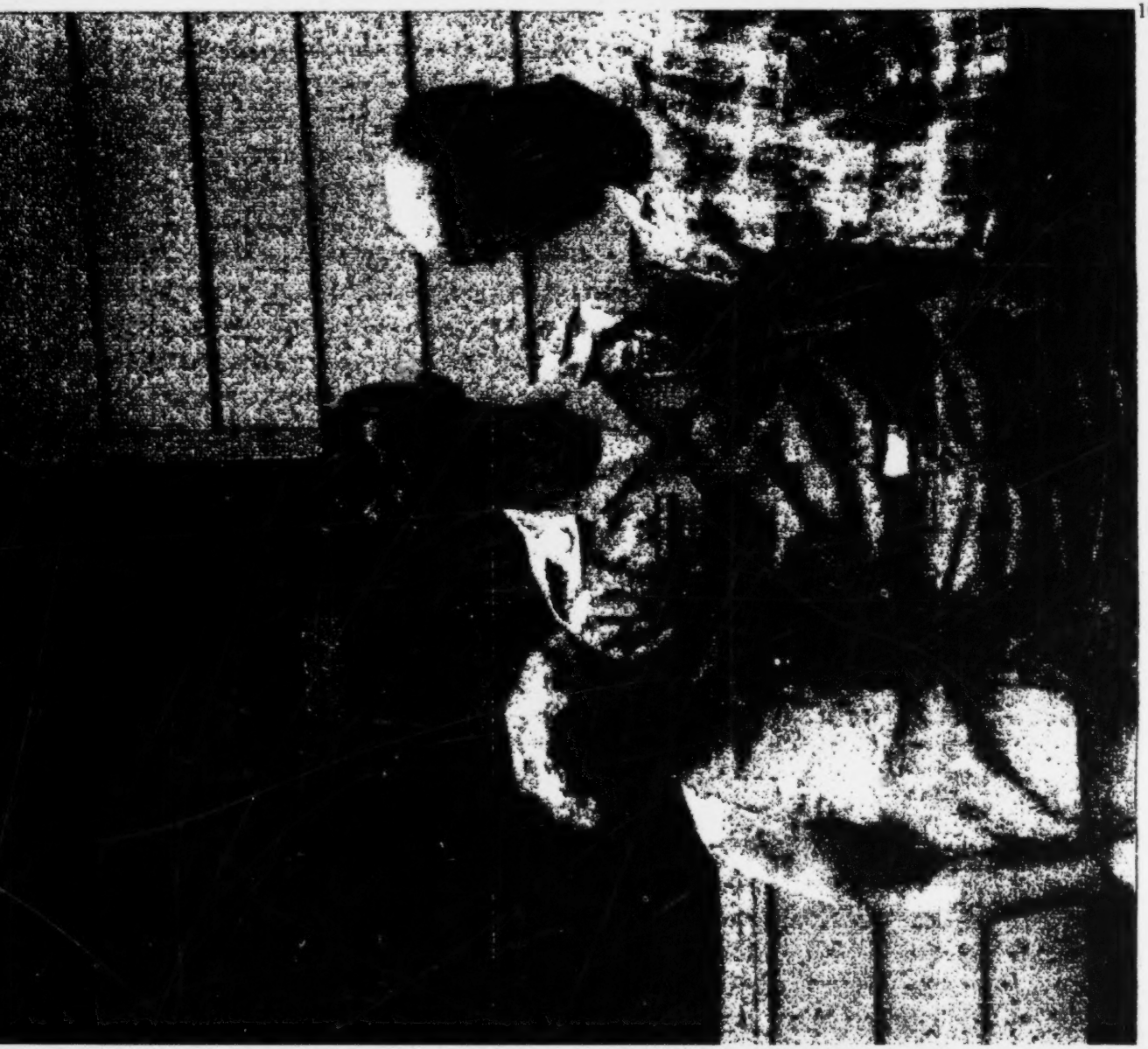
Ronald W. Parkinson
Dale K. Cathell

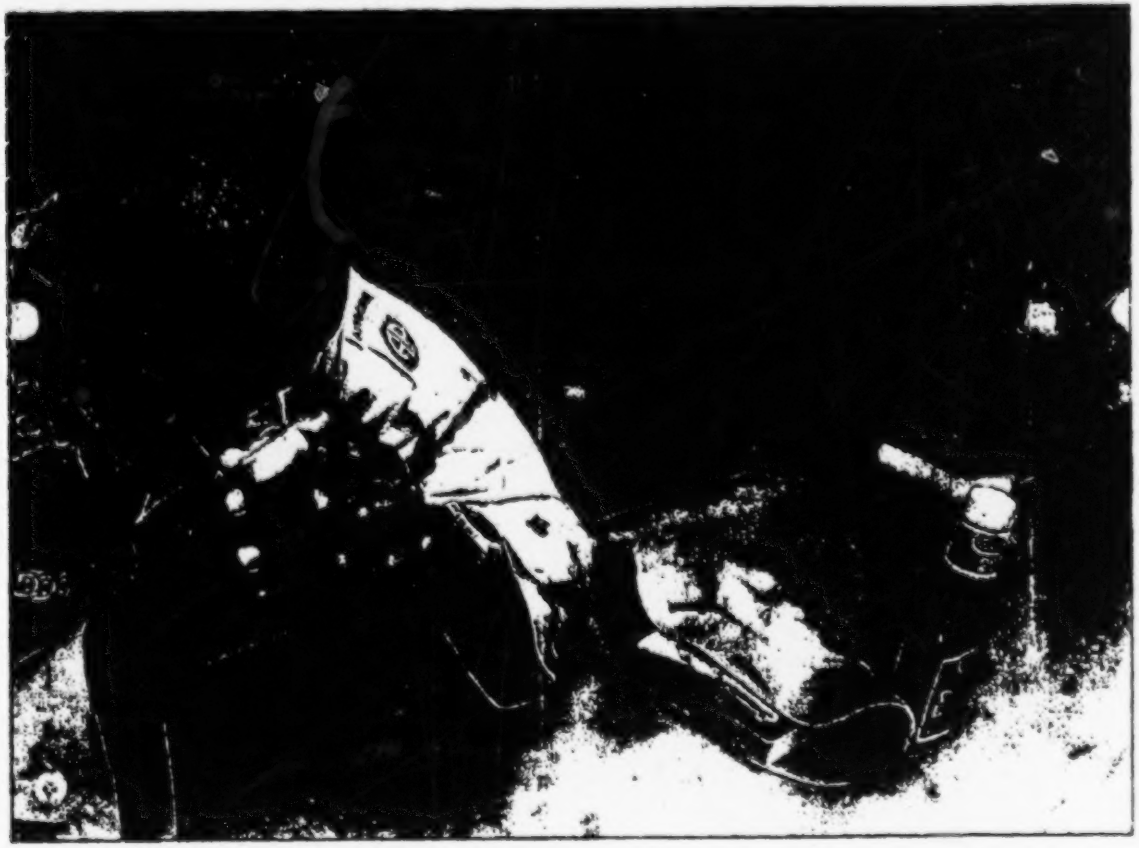
APPENDIX D

By









SPIRITUAL STRENGTH: U.S.Army 82nd Airborne paratroopers pray during a field worship service at a base in Afghanistan.

Ronald W. Parkinson
R.T.R.D.M.S.R.D.C.S.R.V.T.
Supervisor Ultrasound

PROGRESS REPORT

THE ANNE ARUNDEL GENERAL HOSPITAL

FALL 1982

Midshipmen Once Pulled Fire Engine, Veteran Academy Chief Recalls

Forty years as a fire fighter is what Naval Academy Fire Chief Alfred M. Parkinson has to look back on, as he announced this week he won't retire for another few years.

The 58-year-old chief, who makes his home in Annapolis, can not only remember when horses were used to draw the academy fire equipment, but recalls when well-muscled midshipmen for several years would be placed in the traces to trot a 50-gallon chemical truck and streamer to the scene of any blaze.

According to Parkinson, about 25 midshipmen would come running to the old fire house at the sound of the alarm to pull the steamer off to the scene of the fire. The steamer was motivated by midshipmen manpower until 1937 when the academy got a new 1,500-gallon-per-minute water pumper that made the steamer obsolete.

Would Direct Marines

With the addition of the new fire-fighting apparatus, Parkinson became the driver and operator of the modern firetruck. From 1937 to 1941, he would rush the firetruck to the fire and there would be met by Marines who would do the actual fire fighting under Parkinson's supervision.

From the day he was hired in 1924 until December of 1941, Parkinson was the first and only full-time firefighter employed by the Naval Academy. However, shortly after Pearl Harbor in 1941, a civilian fire department was formed at the academy.

One of the first members of the new group was Alfred M. Parkinson, Jr., who with the exception of four years serving with the Army Air Force overseas in World War II, has remained with the academy fire department.

Four Sons, Four Daughters

The senior Parkinson has three other sons, Wayne, Bernard and Harold, all of whom saw overseas service during World War II, and four daughters. All but one of his children live in Annapolis. He also has fifteen grandchildren.

Looking back at his 40 years of firefighting, Parkinson recalls a fire at the Colonial Theater, in Annapolis in 1919, that destroyed the building and seven near-by structures in the most destructive fire he has been called on to fight.

Presently the academy fire department hires only experienced firefighters. But, Parkinson adds, the training of men continues throughout their employment. "The members of the academy fire department undergo constant training and instruction in new methods of firefighting."

Firefighter Since 1913

Parkinson first became a member of a fire-fighting team at the age of 17 when he joined the Annapolis Volunteer Fire Department in 1913. In 1930 he joined the West Annapolis Volunteer Fire Fighting Department and from 1931 to 1935 was fire chief.

Parkinson has made an effort to keep informed on firefighting improvements by attending fire-fighting courses at the University of Maryland, Navy-sponsored fire-fighting courses and conventions, and State conventions of firefighters.

According to Parkinson, the academy fire department is called out about 90 to 100 times a year. A great deal of his work is in the prevention of fires by monthly inspections to insure against fire hazards.

Monthly Drills

Another important part of Chief Parkinson's work is the monthly drills, at which both civilian and navy firefighters are given practical training.

Under the supervision of Parkinson, fires are started and the firefighters put their classroom knowledge into practice.

Naval Academy Fire Chief Albert M. Parkinson sits at the wheel of one of his modern fire trucks, but can easily remember the days when midshipmen were used to power the Academy's equipment to any blaze.

Five Eastport Residents Hurt In Boat Blast

Five Eastport residents suffered minor burns in an explosion caused by the ignition of accumulated gas fumes on their small boat early last night.

Treated at Anne Arundel General Hospital were Rubin Roland, 48, 509 Boucher Avenue, owner of the boat, his wife Estelle, 40, Pau-

Miss Elizabeth Smith, 16, 427 Fourth Street, and Mrs. Carrie Smith, 54, same address, Roland, Mrs. Stokes and Miss Smith were released by hospital authorities, but Mrs. Smith and Mrs. Roland were admitted to the hospital with second degree burns. Their condition was reported as satisfactory by hospital authorities.

The explosion occurred shortly after the boat had gotten underway from a boatyard at the foot of Fifth Street. The women jumped into the water and were aided ashore by men working in the yard, who also succeeded in putting out the blaze within a short time. Minor damage was done to the craft.

Firemen Answer

Fireman Injured At Shack Fire

A 35-year-old Independent Fire Company volunteer fireman yes-

Fire In On Ch

Annapolis Gwynn Bow parents shou tions in allo with match that merchs ing children ole.

Bowen's yesterday is was charge in an Easte of children fire close to in the same

West Ann after noon a tractor fi on Route 5(arrival.

Earlier ye port firem on Second ster set fir removed th it in the b Youngsters yesterday Feldmeyer' Terrace.

Eastport companies

At 7:21 Rescue an men put o er's equip Street. E Annapolis, firemen at Sherwood

News

INJURED IN

Anne Arun physicians w save the life driver, severe dump truck expressway n ern River B noon. George colored, driv ceived third Annapolis fi men said. Det not available

Truck

A truck d ly burned v over on th ton expres Anne Arur today.

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LATE — NEWS

Evening Capital

WEATHER
Fair and continued warm tonight and Wednesday.

VOL. LXI — NO 72 ANNAPOLIS, MD., TUESDAY, MARCH 27, 1945 THREE CENTS

Nazis' Main West Defenses Broken

U. S. Tanks On Open Plains Of Germany

Eisenhower Declares Germans Have Suffered Defeat They Cannot Afford

COUNTY HEALTH OFFICER BACKS ANNEXATION

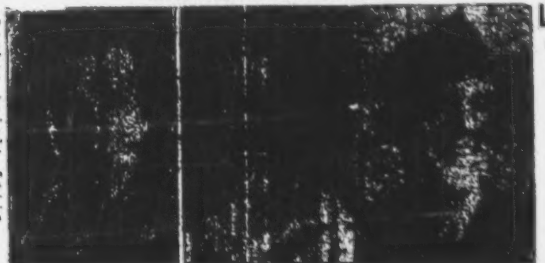
Given View At Meeting Of Chamber Of Commerce

ROOMS MODELED ON HARWOOD HOUSE SHOWN BY PUPILS

More Cotton And Rayon Goods Are Predicted

New OPA Regulations Are Explained To

BROTHERS IN SERVICE



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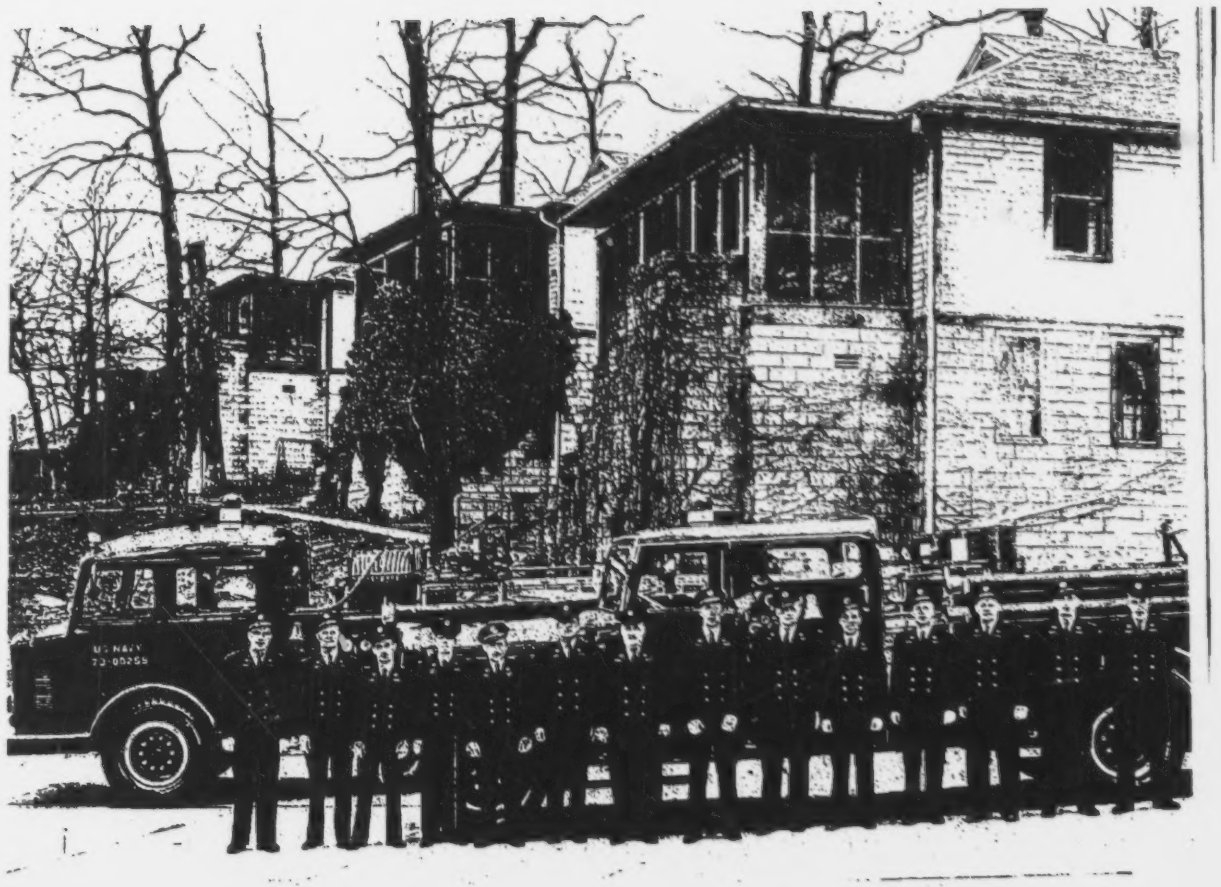
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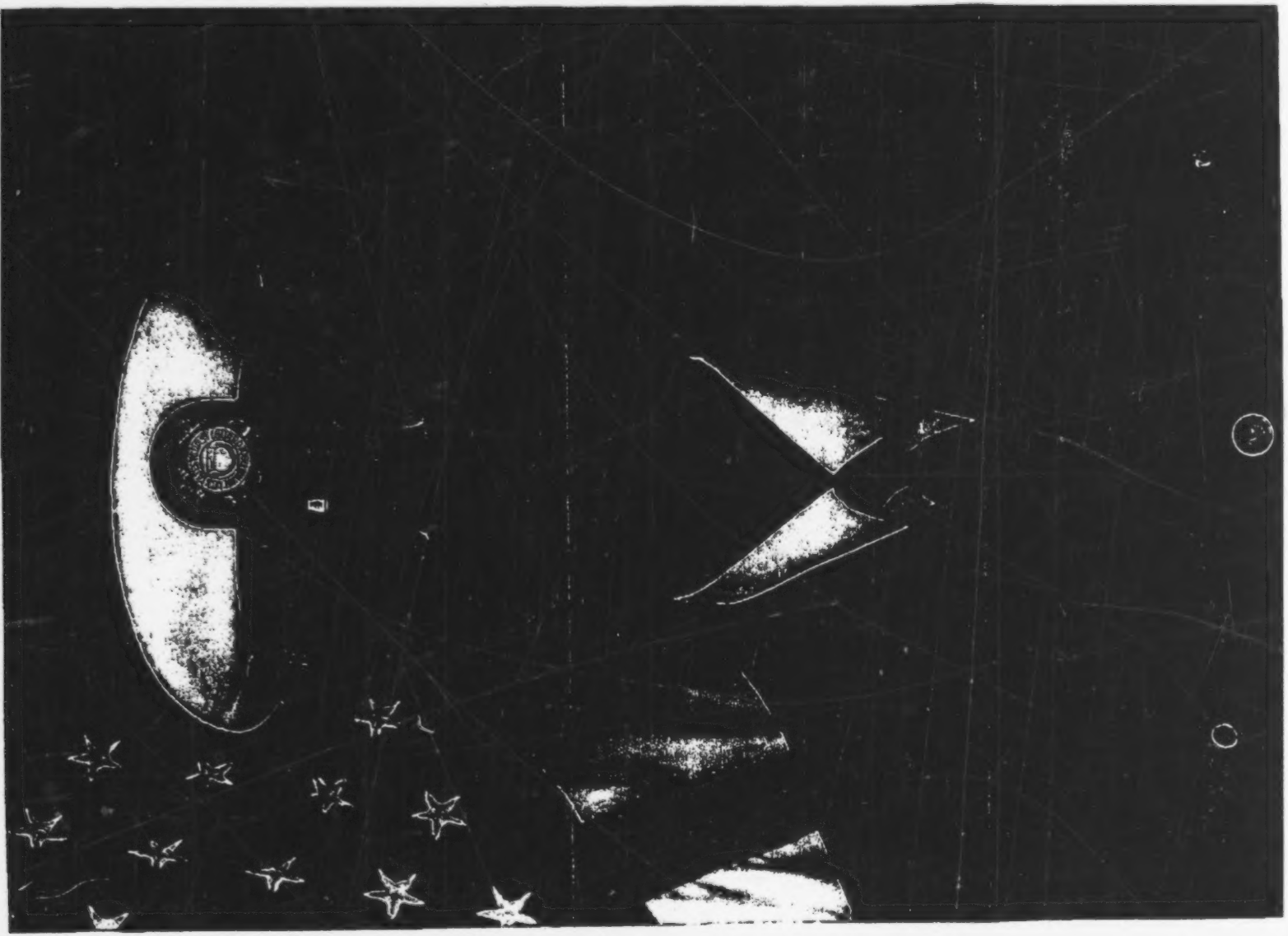

APPENDIX E

Melissa Stewart,

Just to let you know, on December 31, 2002 at approximately 3:00p.m., I was informed that Ronald Parkinson was visiting with his mother and also speaking with "Gert". On walking around the loop to Queen Anne's he was seated in a rocker with his mother seated in one next to him, He was holding his mother's hand and also with his other hand holding "Gert's" hand. I approached, said hello and asked "Gert" how she was. She replied o.k. and wanted to know what I wanted. Ron concurrently let go of her hand. I said I was joining the conversation and just remained standing by the "mailbox". He stayed and talked quietly to his mom. "Gert" talked to me about her hair and her shower this morning. Then Ron got up and took his mother to the Neighborhood Center for snacks and "Gert" sat in the rocker, she did not follow them.

Margie Cotterman, RSC

APPENDIX F

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY, MARYLAND

Civil No. C-2004-102234
Annapolis, Maryland
May 22, 2006

RONALD M. PARKINSON,
Plaintiff,

v.

SOMERFORD CORPORATION, *et al.*,
Defendants.

HEARING

WHEREUPON, proceedings in the above-entitled matter commenced.

BEFORE: THE HONORABLE JOSEPH P. MANCK, *Judge.*

APPEARANCES:

FOR THE PLAINTIFF:

RONALD M. PARKINSON, Pro Se
548 Rockwood Road
Annapolis, MD 21401

FOR THE DEFENDANT:

DALE K. CATHELL, Esq.
Piper Rudnick, LLP
6225 Smith Avenue
Baltimore, MD 21209

INTERESTED THIRD-PARTY

MICHAEL LORD, Esq.
Anne Arundel County, Office of Law
2660 Riva Road
Annapolis, MD 21401

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EXHIBITS:	FOR IDENTIFICATION	RECEIVED
For Anne, Arundel County:		
1	27	27

* * * *

PROCEEDING

[3] THE COURT: Is the Parkinson and Somerford Corporation—everybody ready on that?

MR. CATHELL: Sure.

THE COURT: Okay. Do we have folks downstairs?

THE CLERK: We do.

MR. _____: Three out of four.

THE COURT: And this is C-2004-102234. If counsel will identify themselves please.

MR. CATHELL: Dale Cathell, Your Honor, on behalf of Somerford Corp., Annapolis Heritage Partners, LLC, and Melissa Stewart.

MR. LORD: Good morning, Your Honor. Michael Lord, on behalf of Anne Arundel County. We are here specifically on a motion to quash the subpoena seeking records which is relevant to this case.

THE COURT: All right.

MR. PARKINSON: Ron Parkinson.

THE COURT: Okay. And I believe this is, Mr. Cathell, your motion on behalf of Melissa Stewart.

MR. CATHELL: You are correct, Your Honor. Actually there are several pleadings because there was an appeal that was noticed that was ultimately dismissed by the Court of Special Appeals. There were several motions that we had filed I guess on behalf of one of my clients.

[4] Melissa Stewart filed a motion to dismiss the fourth amended complaint. The Somerford Defendants, Somerford Corp. and. Annapolis Heritage Partners, filed a motion to strike the fourth amended complaint because what happened is we had the hearing on the motion to dismiss the third

amended complaint on September 13th, and prior to the Court entering the written order, Mr. Parkinson filed a fourth amended complaint before that order was entered alleging the same causes of action that were ultimately dismissed with prejudice against the Somerford entities.

We additionally objected to a subpoena on behalf of Melissa Stewart. She was served with a subpoena prior to filing her motion to dismiss, so at the time she was a non-party.

And likewise, Somerford Corp. filed a motion for a protective order and to quash the subpoena that was served on Melissa Stewart with respect to the documents that were requested. So there was really four pleadings that were outstanding I guess with respect to our clients. I didn't know how you wanted to take them and in what order.

The ones dealing with the motion for protective order and objection to the subpoena I think would be very brief, Your Honor. And the motion to dismiss—it would be my recommendation to go forward I think with the motion to dismiss first and/or the motion to strike, but whatever order

* * * *

[10] complaint—

THE COURT: All right. How are they different, sir?

MR. PARKINSON: They're quite different. You know, if I can continue, you know, I'll go over each one of them.

THE COURT: Go ahead.

MR. PARKINSON: Okay, count one, United States Constitution—"United States Constitution Amendment Seven provides in suits at common law where the value in controversy shall exceed $20, the right of a trial by jury shall be preserved."

Maryland Constitution Declaration of Rights Article Five, "That the inhabitants of Maryland are entitled to the common laws of England in a trial by jury.

Maryland Constitution Declaration of Rights Article 23, "The right of a trial by jury of all issues of fact in civil proceedings in the—Courts of the law—where the amount of controversy exceeds the sum of $10,000 shall be—preserved.

United States Constitution Amendment One "Provides impertinent part, Congress shall make no laws abridging the freedom of speech."

Maryland Constitution Declaration of Rights Article 40 "Every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subjects."

[11] United States Constitution Amendment One "Congress shall make no law abridging the rights of people to peacefully assemble and petition the Government for redress of grievandes."

Maryland Constitution Declaration of Rights Article 13, "That every man has a right to petition for redress of grievances."

United States Constitution Amendment 14, "No state shall make or enforce any law which shall abridge amenities of citizens of the United States."

United States Constitution Amendment 14 provides "No state shall deprive any person of life, liberty or property without due process."

United States Constitution Amendment Five provides "No person shall be deprived of life, liberty or property without due process."

Maryland Constitution Declarations of Article 19 provides "That every man for any injury done to him and his person or property ought to have remedy by the course of the law of the

land, ought to have justice and rights freely without sale, fully without any denial and speedy without delay according to the laws of the land."

Maryland Constitution Declaration of Rights Article 20, that "The trial of facts where they arise is one of the greatest security of lives, liberty and the states of the [12] people."

Maryland Constitution Declaration of Rights Article 23 provides "That no man ought to be taken or imprisoned or seized of his freehood, liberty or privileges, or outlawed, or exiled, or in any many manner destroyed or deprived of his life, liberty or property by judgment of its peers or the law of the land."

United States Constitution 14th Amendment "Invalidates State's right which unreasonably or arbitrarily discriminate between persons or classes."

Maryland Constitution Declaration of Rights Articles 19, 23, 44 "Protects citizens against unreasonable or arbitrary discrimination."

What this means is if Your Honor is allowed to see his children and grandchildren and they're to see their parents and grandparents and Defendants and everyone in this courtroom—if everyone in this country is allowed to visit their parents and children, I am entitled to visit my parent and she is allowed to spend time with me. Go for walks, talk, have hobbies together, visit and go out for dinner together.

United States Constitution Amendment Six provides "Impertinent part that accused shall enjoy the rights of a speedy and public trial by an impartial jury of the State; and to be informed of the nature and causes of the [13] accusations; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his, favor."

Maryland Constitution Declaration of Rights Article 21, "Impertinent part every man has a right to be informed of the accusations against him; to have a copy of the indictment or charge in due time; to prepare for his defense; to be allowed to counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him under oath; and to a speedy trial by impartial jury."

Amendment 14, "All persons born or naturalized in the United States are subject to the jurisdictions thereof; are citizens of the United States in the state wherein they reside.

No state shall make or enforce any law which shall abridge the privileges or immunity of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law; nor deny any person within its jurisdiction to equal protection of the law."

"Liberty, engaging in the pursuit or conduct of one's choice to the extent that they're lawful and not harmful to others. To enjoy the rights enjoyed by others in a society free from arbitrary or unreasonable interference or [14] discrimination. Freedom from physical strains. Freedom from subject to the will of another claiming ownership. Freedom from external as Government restrains Freedom of association.

The right guaranteed by the First Amendment to the United States Constitution to join with others either in personal relationships or as part of a group, having a common viewpoint or purpose in exercising the right to assemble and 1 to free speech."

The next count, intentional infliction of emotional distress.

THE COURT: Sir, I don't mean to interrupt you, but is this any different than your third amended complaint?

MR. PARKINSON: Yes, it is. The fourth amended—

THE COURT: I don't want you to read it to me, I want you to tell me what the differences are. What is the difference between the third amended complaint and the fourth amended complaint?

MR. PARKINSON: The wording's different. The charges are clearly—the wording is more specific. May I continue?

THE COURT: Well no, not if you are going to just read everything that you have already put in the record.

MR. PARKINSON: It's not everything that I've put in the record, sir.

[15] THE COURT: I don't want you to just read and read and read and read, it is like 18 pages long and I am not—

MR. PARKINSON: I'm not going to read. I have. a couple of pages, you know, I can't memorize it all like the lawyers, so I have to read what I wrote down.

THE COURT: Well, is what you are reading to me what you wrote and send to the file?

MR. PARKINSON: No, sir.

THE COURT: All right, sir.

MR. PARKINSON: Intentional infliction of emotional distress. Defendants unreasonably infringed upon the liberty guaranteed by the 1st and 14th Amendments of the United States Constitution and Maryland Constitution Declaration of Rights.

For over two years verbal harassment, verbal abuse, restricting visitation, including threats to take away rights to visit or see Plaintiff's mother, then totally blocking Plaintiff access to his mother's last nine months of her life.

This conduct was perpetrated by the agent, servants and employees of Defendants. And within the scope of their employments Defendants are responsible for all acts committed by its agents within the scope of their employments.

Defendants' conduct was intentional, reckless, and deliberate disregard or high degree of probability that the [16] emotional distress result in Plaintiff.

The poor conduct by Defendants and their agents were extreme and outrageous and beyond the bounds of decency in society. The conduct of Defendants were malicious, willful and intentional.

As a result of the poor conduct and action, the Plaintiff has suffered and continue to suffer severe and extreme emotional distress. Plaintiff has been placed on prescription medication for migraines, nausea and insomnia.

Illustrated cases, points and authorities in which the tort was proven. *BN vs. KK*, 312 Md. 135 538 A.2d 1175 1988. *Reagan vs. Rider*, 70 Md. App. 503 521 A.2d 1246 1987. *M-o-n-i-o-d-i-s vs Cook*, 64 Md. App. 1 494 A.2d 212 304 Md. 631 500 A.2d 649 1985.

Young vs. Harford ACC and Indemity,—Md. 303 Md. 182 492 A.2d 1270 1985. *Ford vs. Douglas*, 144 Md. App. 620 2002.

THE COURT: Is this in your brief?

MR. PARKINSON: No, these are not. That's why I'm reading them, sir.

THE COURT: Okay.

MR. PARKINSON: Defendants have not presented any Maryland case that has held a matter of law that keeping a dying mother from her son and a son from his dying mother the last nine months of her life is not highly offensive.

[17] Therefore, it is an issue of fact for the fact finder, the jury, to determine whether this conduct is highly offensive and it is not appropriate for a motion to dismiss.

Next count, evasion of privacy. Unreasonable infringement on the liberties guaranteed by the 1st and 14th Amendments.

Stewart and Defendants were employed by Somerford Corporation and Annapolis Heritage Partners. That's in the previous complaint.

Plaintiff, Ronald W. Parkinson, was his father's personal representative and power of attorney and power of attorney and legal representative for his mother. Defendants' intentional and unreasonable intrusion into the private communications and information, personal and privileged communication, confidentiality, restricted information and communications guaranteed by Federal and State and local law.

Defendants would follow Plaintiff and his mother for over two years to the dining area, living room, TV, hallway, just sitting there rocking, and even to play in his mother's bedroom, eavesdropping on every word.

They were warned many times by many people to stop this invasion of property, which they refused. This surveillance was unreasonably conducted and highly offensive to a reasonable person.

The conduct that described actions of Stewart and [18] Defendants were committed within the scope of their employment, the Somerford Corporation and Annapolis Heritage Partners, where they were performing services which they have been engaged.

As Stewart and Defendants' employers, Somerford Corporation and Annapolis Heritage Partners and care givers are responsible for all the acts committed by Stewart and Defendants within their scope of their employment.

This conduct of Stewart and Defendants was constituted intentional intrusion into the privacy of Plaintiff, was highly offensive to the reasonable person.

As a result of the intrusion upon Plaintiff by Defendants, Plaintiff suffered humiliation and mental distress. Cases, points and authorities: *Bailey vs. Erie Insurance Exchange*,

Md. 515 687 A.2D 1375 1997, citing *Carr vs. Watkins*, 227 Md. 578 177 A.2D 841 1962.

Lawrence vs. A. S. Abell Company, 299 Md. 697 475 A.2D 448 1984. *Trundle vs. Homeside Lending Incorporation*, 162 F Supp. 2D 396 D Md. 2001. *New Summit Association Limited P/Ship vs. N-i-s-t-l-e*, 73 Md. App. 351 533 A.2D 1350 1987, MJIJ CV 25 1.

The Defendants have not presented any Maryland case that has held as a matter of law that unreasonable surveillance of Plaintiff was not highly offensive; therefore, is an issue of fact for the fact finder, the jury, [19] to determine whether this conduct is unreasonable, intentional and highly offensive and it is not appropriate for a motion to dismiss.

Court order signed April 30th, 2003 by Judge Philip T. Caroom, ordered that the children of the disabled person shall be permitted to take the disabled person out of Somerford Place, the assistant living facility in which she resides, for brief periods of family visits.

Ordered that the guardian shall permit all children of the disabled person to have full access to medical records of the disabled person.

Contempt, willful disobedience or open disrespect of a court order or dignity of a court or failure to obey the court order. Indirect contempt, disobedience of a court order that occurs outside the presence of the court.

Defendants have not presented any Maryland case that has held as a matter of law that people and corporation entities named in a court order are not part of that court order or an example from the court order—or exempt from the court order.

Therefore it is an issue of the fact for the fact finder, the jury, to determine whether this court order applies to the Defendants and is not appropriate for a motion to dismiss.

Scheduling order dated 7/2005, Judge Pamela L. [20] North. Pretrial motion, 7/15/05, deadline to file any motion for summary judgment or depository motions. This motion was filed after the deadline and approved after the deadline. These are firm dates and may not be changed.

Pretrial and settlement conference was held on 11/2/05, firm dates cannot be changed. The Court will not grant a continuous of any event, including pretrial conference by counsel or because discovery has not been concluded.

Failure to comply with this provision of this order may lead to the imposition of sanctions of the parties and/or the counsel which may include dismissal, entry of default or monetary sanction as may be appropriate.

Defendants and counsel failed to show up for pretrial and settlement conference on 11/2/05 at 11:00 a.m. Pursuant to Maryland Rule of Procedures 2-341, a party may file an amended complaint to a pledging at any time prior to 15 days of the scheduled trial date.

Federal Rules of Civil Procedure 14, injury or damage rights by some legal actions or prejudice that denies prejudice his rights to a fair trial, unfair prejudice of Plaintiff. The trial date has not been set at pretrial and settlement conference.

Now I will go on and explain the motion and objection to quash the subpoenas. The subpoenas were [21] properly served upon an agent of Somerford Corporation and by their admission in this motion was in fact delivered to. Melissa Stewart as addressed.

A subpoena was properly served upon an agent of Anne Arundel County Department of Aging and by their admission in this motion was in fact delivered to Charlene Liberto, Department of Aging as addressed.

The subpoenas gave Somerford Corporation and the Department of Aging the option of producing documents to Plaintiff; therefore it should be considered a discovery subpoena.

That the records requested by subpoena to Somerford Corporation and the Department of Aging bear a direct correlation to the issues of this case—in so much that Defendants has—the Department of Aging as either authorizing or directing—instructing the Defendants in certain matters pertaining to the care of Plaintiff's mother and Plaintiff himself.

That both Somerford Corporation, Melissa Stewart and the Department of Aging, Charlene Liberto, were subpoenaed as representatives of Somerford Place and the Department of Aging.

This program especially authorizes to receive, investigate and seek to resolve complaints concerning the operation of related institutions.

[22] THE COURT: Let me interrupt for one minute, sir. When did you file the request? What date?

MR. PARKINSON: It's in the scheduling order.

THE COURT: No, no, no, the date that you actually filed the subpoena for the records?

MR. PARKINSON: Monday, 26th of September, '05.

THE COURT: The 26th of September, '05?

MR. PARKINSON: That's correct.

THE COURT: Okay. Thank you.

MR. PARKINSON: The Petitioner being the son of Ethel Parkinson and her power of attorney is entitled to certain disclosures from the ombudsman program regarding the investigation pertaining to his mother's well being and the

appropriateness of care received at Somerford Place as well as his self.

That the Defendants have—the ombudsman as specifically instructing that Ethel Parkinson should not be allowed to leave the institution, Somerford Place, in trying to limit certain family members access to her. Additionally, the ombudsman was allegedly involved in reviewing the questionable legality of the advanced medical directive that her daughter utilized to admit Ethel Parkinson. To Somerford Place this issue has direct bearing on this case.

The Petitioner requested the Department of Aging—the Petitioner respects the Department of Aging's general [23] policy regarding the needs to protect the rights and privacy of complaint in the residence (sic).

The intent of this confidentiality has to do with fear of retaliation or reprisal from the institution that is being investigated, not from the family members of this residence.

Maryland Rules of Civil Procedure Rue 204, "Parties may obtain discovery by a production of documents, which request for discovery of documents shall not operate to delay any other party's discovery."

Rule 2-402, Scope of Discovery. "Any party may obtain discovery regarding any matter, including description, nature, custody, conditions and locations of any document and identity and locations of persons having knowledge of any discovery matters if the matter is relevant to the subject matter involved in the case."

Rule 242, Discovery of Documents and Property. "Scope to produce and to permit the parties making the request to inspect and copy any designated documents, including writings, drawings, graphs, charts, photographs, recordings, other data from which information can be obtained."

Rule 2-501, subpoenas. "A subpoena is required to compel the person to whom it is directed to produce designated documents, produce and permit inspection and [24] copying of designated documents, description and documents."

Rule 432, Motion for Failure to Provide Discovery. Immediate sanctions for certain failure of discovery under Rule 2-433. Failure to request for production of documents or inspections under Rule 242.

Motion for order to compel discovery and production of documents. Section 4-306 of the Health General Articles of Maryland Annotated Code provides that "The medical records will be released upon a subpoena that appears to be valid on its face and contain a certificate that the copy of the subpoena was served on the person whose records are being sought by the parties seeking the disclosure or production of records."

Court order signed by Judge Philip T. Caroom, ordered that the guardianship permitted all the children of the disabled person to have full access to medical records of the disabled person.

Letter dated April 30th, 2003 to Melissa Stewart, Executive Director of Somerford Place, from Rita Orr (sic), Ethel Parkinson's daughter. "Please share any information regarding our mother's medical records on conditions with my brother's—request."

Maryland Rules of Civil Procedure 2-401, 2-402, 2-421, 2-422, 2-432, 2-501, 4-306 all provide for discovery. The Petitioner respectfully requested documents that the

* * * *

[28] CERTIFICATE

CompuScribe, hereby certifies that the attached pages represent an accurate transcript of the duplicated electronic sound recording of the proceedings in the Circuit Court for Anne Arundel County in the matter of:

Civil No. 0-2004-102234.

RONALD M. PARKINSON

v.

SOMERFORD CORPORATION, et al.

By: /s/ Jean J. Hudson
JEAN J. HUDSON
Transcriber

APPENDIX G

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY, MARYLAND

ORIGINAL

Civil No. C-2002-083301
Annapolis, Maryland
April 2, 2003

IN THE MATTER OF: ETHEL E. PARKINSON

HEARING

WHEREUPON, proceedings in the above-entitled matter commenced.

BEFORE: THE HONORABLE PHILIP T. CAROOM, *Judge*.

APPEARANCES:

FOR ETHEL E. PARKINSON:

THOMAS C. CODD, Esq.
Codd and Codd
670 Ritchie Highway
Severna Park, Maryland 21146

FOR THE, PETITIONER, RONALD PARKINSON:

KATHERINE KRISTIN CAWOOD, Esq.
Cawood and Kelly, P.A.
91 Cathedral Street, First Floor
Annapolis, Maryland 21401

FOR THE COUNTER PETITIONER, RITA ORMOND:

THOMAS J. GISRIEL, Esq.
Hodes, Ulman, Pessin and Katz, P.A.
901 Dulaney Valley Road, Suite 400
Towson, Maryland 21204

* * * *

[130] AFTERNOON SESSION

THE COURT: You may be seated. And for the record, we are continuing the guardianship case as to Ethel Parkinson, C-2002-83301, with a new tape this afternoon. So, let me again ask counsel to say and spell your last names for the record.

MS. CAWOOD: Kristin Cawood, C-a-w-o-o-d, representing the Petitioner, Ronald Parkinson.

MR. GISRIEL: Thomas J. Gisriel, G-i-s-r-i-e-l, representing the Counter Petitioner, Rita Ormond.

MR. CODD: And Thomas Codd, C-o-d-d, representing Ethel Parkinson, the alleged Disable Person.

THE COURT: Okay. Mr. Gisriel, do you have your next witness on the stand?

MR. GISRIEL: Yes, Your Honor.

THE COURT: And we need to have sworn in. Whereupon,

MELISSA STEWART was called as a witness by the Coun ter Petitioner, having been first duly sworn, was examined and testified as follows:

THE CLERK: You may be seated. Please state your name and your occupation and spell your last name for the record.

THE WITNESS: Melissa Stewart. I'm the Executive Director at Somerford Place. My last name is spelled S-t-e-w-a-r-t.

[142] Q Could you describe the visits that—when Ron comes to visit Ethel Parkinson?

A Sure. They're frequent. He does come often. And they're rather long in duration. He usually spends several hours there visiting.

When he comes to see her, he usually removes her from activities or wherever she is. He takes her someplace quiet where he can visit with her out in front of maybe one of the neighborhoods and sits in the rockers. And they sit there and he talks to her.

Q Okay. Now, is it helpful that he removes her from the activities?

A No. I feel it's very detrimental to her, especially for prolonged periods of time. It keeps her from being a part of the community and the activities that we offer. It does disrupt her routine when he's there for several hours at a time.

We suggest with our families to do shorter frequent visits because of their inability to—their attention span is so short with many of our residents.

Q And have you communicated this to Mr. Parkinson?

A In our last talk, I did try to talk to him about successful visits.

Q And how did that discussion go?

A Not very well.

* * * *

[159] is called.

BY MS. CAWOOD:

Q Do family members have 24 hour access to your facility?

A Yes, they do.

Q Okay. And how do they have access or how do they access the building after normal business hours?

A They have a code to the door. It's a keypad code.

Q Okay. And you had mentioned before when you investigated the February incident that you didn't have any white males on staff?

A Uh-huh.

Q Is it possible that there were visitors in the building that were white males?

A I guess it's possible. It's probably unprobable, especially late in the evening. We don't have very many family members that visit late in the evening.

Q But are there any personnel available to monitor visitors after hours, other than the keypad?

A In the individual houses, yes, there's care givers.

Q So they would be able to see anyone entering or exit?

A There's not someone stationed at the door watching every person come and go, no.

Q Can you state why that Mr. Ronald Parkinson was

* * * *

[163] Q And who decides the activities?

A The programming services coordinator.

Q What is Ms. Parkinson's current level of care according to your—Somerford's standards of level of care?

A I believe she's a level three.

Q Out of how many levels?

A Five. I don't have that in front of me. So, I'm making a guesstimate.

Q And so a level three would be considered average for a patient in your facility?

A Uh-huh.

Q What are the—how should we phrase this? To what point can Somerford no longer care for an individual?

A Each person is individual. When they move beyond the scopes—scope of our regulations, are assisted living regulations.

Q And what are those?

A We have—I can't give you the specific regulation that's given to us by the State, but I can tell you that anyone that requires skilled nursing care, 24 hour skilled nursing care, is no longer appropriate for assisted living or anyone that has advanced stages that require 24 hour nursing, requires a 24 hour nurse, then they are no longer appropriate.

Q So, is that the, I know—I am sure there is probably other things, but the 24 hour nursing is seems to [164] be the threshold and when they have to move to another facility from Somerford?

A That or their care has become greater than what Somerford Place can meet as far as their needs go. If someone is—becomes bedridden, that is beyond our scope of care. Each person is individual. And we meet with the families discussing this the whole way through their stay there.

Q Under a level three, which I believe—I concur with you on the record I think you—she was—

A I think it is a level three.

Q —a level three. What does that entail? What services does Somerford provide a level three resident?

A It's referred to as active care. We provide hands on assistant with bathing, dressing, grooming, working with challenging behaviors, redirecting, administering medications, doing their laundry, assisting them with dining, activities, encouraging them in activities and participation, all areas of activities of daily living.

Q Isn't a nurse needed to administer the medications?

A No. She does have a nurse administer her medications in the morning.

Q But that is not—?

A It's not mandated by our regulations. It is under a delegating nurse though. A nurse does delegate that to happen under our regulations.

* * * *

[168] you know, give them a day to adjust or two days.

Q So you feel that the patients shouldn't be reminded about their prior homes once they have been moved to—?

A Not initiate. No, we don't initiate that unless it's soothing. If it's going to cause them distress, no, that's not a conversation that we talk about with them.

Q Well, isn't it true when Ms. Parkinson was first admitted it was on a one month respite basis?

A Yes.

Q So at that point in time it wasn't known if she was going to continue on there?

A Correct.

Q So I guess I am confused as to why that you would try to limit visitors if this may not be a permanent solution or a permanent residence for her?

A It's still an adjustment period whether you're there three days, six days a week, a month, or are you're going to be there permanently. It's still an adjustment. The resident doesn't have any sense of time. And it may be more disturbing to them or disruptive to them to—until they do start to get adjusted.

Q Can you identify that document? I know I don't have the full document there. But I think you should be able to recognize it.

A Yes. This is our residency agreement or a few pages [169] of it.

(The document referred to was marked for identification as Petitioner's Exhibit 8.)

BY MS. CAWOOD:

Q And under the heading family visits, isn't it true that it encourages regular family involvement and communication with the residents?

A Uh-huh.

Q And providing ample opportunities for family participation?

A Uh-huh.

Q That seems to not coincide with—in the early stages of admission?

A I don't know what you're asking.

Q I mean you had communicated to Ronald Parkinson about the extent of his visits with his mother. Is that correct?

A The extent of his visits?

Q Or the, I guess, the frequency or duration of the visits?

A Just recently. Just recently. But never really given an opportunity to up until he's been very kind of standoffish. Hasn't ever tried to involve himself in Somerford Place.

[170] When he initially came to Somerford to visit his mom for the first time, I, you know, did try to tell him about Somerford and he just did not seem to want the information about Somerford. 'Cause we wanted to try to encourage his visits to be successful.

Q Didn't you also tell him in the beginning about recommending that he not visit his mother for a period of a couple of days or limiting the length of his visit?

A I don't recall. I don't recall.

Q If you could refer to attachment C, number nine, "To have communications to the facility from his/her family and responsible persons answered promptly and appropriately." Do you share information with Ronald Parkinson about his mother?

A He's never asked for—he's never asked anything about his mom when he comes to visit. He goes, he visits her. He doesn't—he says hello to the staff, but he's never spoken with the nurses and asked any kind of questions about her, her medical, or he's never asked questions. He's only come to me once. And that was when he was very mad.

Q How do you know that he hasn't asked the other care givers? Do they make a note of every question a family member ever asks of them?

A If it's a medical question, they would refer him to the nurse. Because the nurse has the medical piece. They are not—they don't have access to the medical records.

[171] Q Do you feel that Mr. Parkinson should have been notified about the October incident with his mother?

A He's not listed as the responsible party. So, we have no obligation to notify him.

Q To your knowledge, did he know anything about the October incident?

A I didn't say anything to him. But we did share that information with the ombudsman. So, we did our investigation as we should have.

MS. CAWOOD: Your Honor, I would like to move this into evidence.

MR. GISRIEL: No objection, Your Honor.

MR. CODD: No objection.

MR. GISRIEL: What number is that?

THE COURT: This would be in, Exhibit 8, I think.

MR. CODD: 7, I think.

MS. CAWOOD: 7.

THE CLERK: No, I have 8.

THE COURT: It should be 8.

MS. CAWOOD: Is it 8?

MR. CODD: 8.

THE COURT: 7 is, I think, e-mail correspondence.

MR. CODD: It is the what, Your Honor?

THE COURT: Pardon me?

MR. CODD: What was 7?

* * * *

[174] tranquilizers is administered to her for agitation?

A Not always. Not always. We try to redirect her, involve her in activities. Medication is only used as a last resort. If she starts lashing out at other people or grabbing other people where it could affect the well-being of other residents, then they do use, I think it's Xanax, not tranquilizer, I don't believe.

Q What do you feel—what kind of medication do you feel Xanax is?

A It's an anti-anxiety medication.

Q Did you contact the Department of Aging or the ombudsman prior to Ethel's admission?

A No. Not for her specifically. But I do have pretty constant communication with the ombudsman.

Q Did you ever contact them with a question regarding the advance medical directive that Ms. Ormond had for her mother?

A To request—I'm sorry, can you restate—say that again?

Q Did you ever contact the ombudsman regarding the advance medical directive that Ms. Ormond was using as authority to admit her mother?

A No. I believe the asked me about the advance directive, her healthcare—her power of attorney. They asked me about it. They asked if she had a power of attorney and I

* * * *

[185] Ms. Parkinson coming to the facility?

A She said that some of her brothers were opposed. That was a long time ago. I try not to get involved in family dynamics and stay as removed as possible. So, I don't recall. I really don't. Which family members, I don't. I do remember her saying that some of her brothers were opposed.

Q How frequently do you talk to Ms. Ormond?

A On a pretty regular basis. When she comes in, I usually see her. And she'll ask how mom is doing today. If

there's an emergency or a change in her condition, we notify her. Anything going on special or out. of the ordinary, we notify her of anything going on.

My office is—is positioned right near the front entrance. So, I see her when she comes in. And she usually asks me how mom's doing. So, I do see her quite a bit.

Q I would like to show you a document. And, unfortunately, I don't have copies. It is the first two pages of the resident notes.

MR. GISRIEL: Hold on. (Reading.)

MS. CAWOOD: Beginning August 8th and August 21st, at the top of the sheet.

MR. GISRIEL: This is the first subpoena or the second subpoena?

MS. CAWOOD: It would have been the first. First of all, I object to giving the witness a highlighted copy of the

* * * *

[189] THE CLERK: 10.

THE COURT: 10.

(The documents referred to were marked for identification as Petitioner's Exhibit 10 and were received in evidence.)

THE COURT: Any other questions?

MS. CAWOOD: I think that is it for now, Your Honor.

THE COURT: Mr. Codd.

MR. CODD: Okay.

BY MR. CODD:

Q Ms. Stewart, are you like– you are not a psychologist or anything, are you?

A No. My degree is—my bachelors degree is in social work.

Q Okay. Well, so, are you a licensed social worker?

A No, I'm not.

Q Okay. And why did you leave Sunrise? Is this better pay or a better job or did you—any reason you left Sunrise?

A Just personal reasons. I just wanted to go back to—I just—actually, I left for—to take some time off and pursue other things.

Q Okay. All right. And let me see. And let me just ask you just real quickly, the activities that you refer to or

* * * *

[192] good to them. And I think Rosemont was one of those.

Actually, Rita told me when I was out doing the assessment that she often refers to Rosemont. And she's looking for Rosemont. And, in her eyes, that was home.

Q Well, when you were out doing the assessment, did you go to the house to do the assessment or did you go to—?

A I did go to the house to do—.

Q Okay.

A Wherever the person is.

Q On Shiley Street or whatever it was. Yes, okay. So, you went to Shiley Street where her old home to do the assessment?

A I went to where she was at the time. And she was at Rita's home.

Q Oh, at Rita's house. Okay. All right. When was that? When did you actually do the assessment? Do you remember? If you remember. If you don't that is all right.

A I don't. I'm sorry.

Q Okay.

A It was prior to her move in.

Q Okay. Now, do you—is it Somerford's position that Ronald Parkinson is like trying to sabotage things over there?

A No.

Q That is not their—that is not the position?

* * * *

[200] other, questions.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. GISRIEL:

Q Ms. Stewart, when counsel was going through the medication chart, you wanted to say something about behavior and she didn't let you. What was it you wanted to say?

A And I noticed this when I was looking at this. I don't often look at the medication records too frequently. But it started when Ronald starting visiting for longer hours is when she became more agitated. I do see a correlation in that.

It doesn't in the records say all the time when the medication the PRN or as needed medication was administered along with the signature. But I do see that as a correlation. It's just an opinion. But I was wondering if the behaviors could be associated.

MR. GISRIEL: I have nothing further, Your Honor.

THE COURT: Let me ask a couple of questions I should have asked before.

THE WITNESS: Sure.

THE COURT: One is the rules of the house or whatever you call it that is attached to the agreement for visitation; are they given to every visitor that walks in?

THE WITNESS: No. Just to the responsible party.

THE COURT: Are they posted on the wall and you say, [201] sir, before you visit, read those rules?

THE WITNESS: No, we do not.

THE COURT: Okay. So, Mr. Parkinson would not necessarily have known what the rules were about food or dealing with other residents?

THE WITNESS: Not necessarily. But I've welcomed conversations with him to talk more about Somerford Place.

THE COURT: One of the exhibits, the report indicating that there was a little disruption involving, I guess, yourself and Mr. Parkinson, there is reference made to him denying that he was involved in an incident on March 15th?

THE WITNESS: Yes.

THE COURT: What was the allegation?

THE WITNESS: I was told by my staff that they thought that they saw him there really late in the evening after she went to bed. And I just asked him about—I was asking him about the visit.

THE COURT: This was the night before or something like that?

THE WITNESS: It was a weekend before. I think this may have been a Monday, if I'm not mistaken, when this all happened. And I was asking about it over the weekend. Just not sure why, you know, why he was kind of hanging around. It just seemed suspicious to my staff and me.

THE COURT: Okay. But there was no allegation that

* * * *

APPENDIX H

CAWOOD & KELLY, PA
ATTORNEYS AT LAW
91 CATHEDRAL STREET
ANNAPOLIS, MARYLAND 21401

e-mail: CawoodLaw@hotmail com

January 3, 2003

Somerford Place
Attn: Melissa Stewart
2717 Riva Road
Annapolis, Maryland 21401

Re: Ethel Parkinson

Dear Ms. Stewart:

As you are aware, this firm represents Ronald Parkinson regarding guardianship proceedings pertaining to his mother, Ethel Parkinson. We have received a copy of your correspondence to our client dated December 26, 2002 regarding your allegations that he is "approaching" residents and "offering to arrange legal services" for them.

First of all, our client is a very frequent visitor to your facility because he cares very deeply for his mother and sees her as often as he can. During these visits, due to the inherent communal nature of such a facility, ie. Common areas such as TV room and dining room, and during such visits, he has been befriended by various residents. These residents enjoy meeting new people and socializing with 'outside' people such as Mr. Parkinson, especially if that resident's own family and friends do not come and visit often. I do not see how in the best interests of your residents that your would

discourage such socializing and visits with your residents, or worse, that this socializing is detrimental to their health, safety and welfare.

Secondly, your letter threatens to bar Mr. Parkinson's only access to his mother unless he "immediately stop all communications with residents, other than (his) mother". You have offered no evidence that Mr. Parkinson's interactions with other residents is detrimental to their health, safety and welfare. Have their been any complaints from the other residents regarding Mr. Parkinson? If there have, we demand to see evidence of such complaints. If not, I do not see where any harm has been done to justify infringing on Mr. Parkinson's right and your resident's right to speak to whomever they please and upon whatever subjects they choose as is the nature of free speech.

On a new topic, my client has informed me that your staff has been singling him out during his visits with his mother and making such visits awkward by eavesdropping on their conversations and entering Mrs. Parkinson's room under pretext when he is visiting her. This activity needs to cease at once as it is infringing on their right to privacy. Again, if you have any objective evidence that Mr. Parkinson's visits to his mother are detrimental to her health, safety and welfare, you need disclose, otherwise your threats to bar him from Somerford are groundless and just further evidence of Somerford's inappropriate involvement in a family dispute. As you know, there is pending legal action regarding Mrs. Parkinson's welfare and the court will be the final arbiters of this dispute, not Somerford Place.

Lastly, Somerford complied with our records subpoena a couple of weeks ago and those records contained no reference to the problems alleged in your December 26, 2002 letter. If there is any evidence of complaints by residents or any other evidence of alleged detriment to health, safety and welfare of Mrs. Parkinson or any other resident at Somerford due to

Ronald Parkinson's visits, please provide immediately, otherwise, any attempt to prevent Mr. Parkinson from coming onto the property of Somerford will be met with an immediate court injunction.

Sincerely,

/s/ Kristin D. Cawood
KRISTIN D. CAWOOD

cc: Ronald Parkinson
Lewis C. Price, President and CEO
Department of Aging, Melissa Medic
Thomas Codd, Esquire

APPENDIX I

LAW OFFICES OF
STAHL & BLOCK, L.L.C.
5 PARK CENTER COURT, SUITE 301
OWINGS MILLS, MARYLAND 21117

TELEPHONES: 410-356-6555 & 410-363-0770
OUT OF AREA 800-875-6554
FACSIMILE 410-356-1439
VOICE & TDD

EMAIL: Lmstahl@stahlandblock.com
Jblock@stahlandblockcom

Please Forward All Mail To Owings Mills Address

November 2, 2004

Ms. Melissa Stewart
Executive Director
Somerford Place
2717 Riva Road
Annapolis, Maryland 21401

RE: Ron Parkinson

Dear Ms. Stewart:

This letter is to inform you that this office has been retained by the above referenced individual, whose mother, Ethel E. Parkinson is a resident at Somerford Place. I have had the opportunity to discuss Ms. Parkinson's care with my client, and have reviewed the letter you sent to him on September 20, 2004, wherein you advised Mr. Parkinson that he was no longer welcome to visit his mother at the facility.

Allow me to first respond to your letter by providing you with some information that you may or may not have. Firstly, I wish to make you aware that the care and guardianship of Ethel E. Parkinson has previously been heard before the Circuit Court for Anne Arundel County. More specifically, in an Order dated April 30, 2003, Rita Ormand was named Guardian of the person and property of Ms. Parkinson. More specifically, for purposes of our discussion today, Ms. Parkinson's children were expressly permitted to take their mother out of your facility within reasonable limitations. Obviously, your threat to call the authorities on my client should he enter upon your property prevents him from exercising these rights and puts you in violation of this Order.

Furthermore, as you undoubtedly are aware, Congress passed the Nursing Home Reform Act in 1987. This piece of legislation, which can be found in the Omnibus Budget Reconciliation Act of 1987 (47 U.S.C. 1396r) specifically requires a Nursing Home to permit access to a resident by immediate family or other relatives of the resident. As such, it would appear that your letter of September 22, has violated federal law as well.

At this time, I would like to request additional information concerning what my client and I believe to be the wholly unsubstantiated allegation contained in your letter. More specifically, regarding your allegation that Mr. Parkinson spends more time with other residents than with his mother, I would like to request the following: (a) the date, time and location of each such incident; (b) information concerning the location of Ms. Parkinson during each such incident; (c) a list of all witnesses during such incident(s); (d) a copy of Somerford Place's policy regarding spending time with unrelated residents; (e) the date, time and location of any meeting between yourself and Mr. Parkinson regarding meeting with other residents; (f) any documents signed by Mr. Parkinson stating that any such meeting took place;

(g) any evidence to any documents concerning allegations of meeting with other residents was sent to Mr. Parkinson via mail or other method of delivery.

I would further request the above information concerning the other allegations contained in your letter; that client engaging in hand holding with other female residents, that Mr. Parkinson had a habit of visiting at inappropriate times and that he had banged on dining tables while telling other residents to visit their meals. I would also like to request a copy of any and all policies Somerford Place currently has in place regarding visitors. In particular, I am curious to know whether or not you have some policy regarding children taking photographs of their parents while in your care.

Please understand that my client only concern is his ability to visit with his ailing mother. Neither he nor I have any desire for costly and time consuming litigation. With that said, however, unless I hear from you immediately in writing that my client is now welcome to come visit his mother at your facility, I will have no choice but to file a Complaint for Injunctive Relief with the Circuit Court for Anne Arundel County. Of course, should you wish to discuss this matter in greater detail you are welcome to call this office at any time.

I thank you for your time and attention to this matter and I hope to hear from you shortly.

Very truly yours,

John A. Vengroski, III

JAV/sds
Enclosure
cc: Ron Parkinson
Ms. Melissa Medick, Department of Aging
Ms. Rosemary D. Payne, Department of Health and Mental Hygiene

APPENDIX J

[Logo] STATE OF MARYLAND
Healthy, a 50 Communities

Maryland Department of Health and Mental Hygiene
Office of Health Care Quality
Spring Grove Center • Bland Bryant Building
55 Wade Avenue • Catonsville, Maryland 21228-4663
Robert L. Ehrlich, Jr., Governor—Michael S. Steele, Lt. Governor —Nelson J. Sabatini, Secretary

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August 24, 2006

Mr. Ronald Parkinson
548 Rockwood Court
Annapolis MD 21410
Dear Mr. Parkinson:

Re: Somerford Place—Annapolis

Thank you for your request for a copy of the survey records for the above assisted living program for the period of 2004. A review of the files revealed the enclosed documentation: Complaint Survey Report dated May 24, 2004

Please feel free to contact me should additional information be needed. I can be contacted at (410) 402-8198. Thank you for your inquiry.

Sincerely,

/s/ Laura Nottingham
LAURA NOTTINGHAM
Office of Health Care Quality
Assisted Living Custodian of Records
Community and Residential Programs
Assisted Living Unit

Cc: Cheryl Reddick, R.N., B.A., M.S.
Complaint Manager, Assisted Living Unit

ffice of Health Care Quality

TATEMENT OF DEFICIENCIES ND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	02AL189	A. BUILDING _____ B. WING _____	5/24/2004

AME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
OMERFORD PLACE - ANNAPOLIS	2717 RIVA ROAD ANNAPOLIS, MD 21401

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
Z 000	Initial Comments On May 24, 2004 a complaint investigation was conducted at the above facility. Survey activities consisted of review of resident records, observations of residents and the environment, and interviews held with residents and the facility's staff.	Z 000		
Z2660	.21 O .21 Medication Management O. Required Documentation. The documentation required under §N of this regulation shall be recorded by a staff member at the time that the resident takes or receives medications, on a form developed or approved by the Department. This Requirement is not met as evidenced by: Based on review of Medication Administration Records (M.A.R.s) the facility failed to document at the time that the resident takes or receives medications and appropriately document on the M.A.R.s according to COMAR 10.27.11. Findings include: Review of M.A.R.s for residents #3, #8 - #11. Review of M.A.R.s for April 2004 for resident #3, revealed the following medication documentation errors: Facility staff on April 3rd, 23rd and 30th at 9:00 p.m., failed to document the administration or the omission of the buspar 15 mg (anxiety). Facility staff on April 2nd, 3rd, 23rd, and 30th failed to document the administration or the omission of the buspar 15 mg (1/2) tab. Facility staff on April 31st documented the administration of sinemet-25/25 (parkinson) at 12:00 midnight	Z2660		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	02AL189	A. BUILDING _____ B. WING _____	5/24/2004

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
SOMERFORD PLACE - ANNAPOLIS	2717 RIVA ROAD ANNAPOLIS, MD 21401

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
Z2660	Continued From Page 1 and 4:00 a.m. (April 2004, 30 days on the calendar). Review of M.A.R.s for April 2004 for resident #8, revealed the following medication documentation errors: Facility staff on April 11th and 15th failed to document the administration or the omission of the vitamin A and B-12 supplements, zocor (heart disease) and zyprexa (mental disorders). Review of M.A.R.s for April 2004 for resident #9, revealed the following medication documentation errors: Facility staff on April 21st at 9:00 p.m. and 27th at 9:00 a.m. failed to document the administration or the omission of the refresh tears eye drops. Facility staff on April 11th, 21st and 30th, failed to document the administration or the omission of the seroquel at 9:00 p.m. Review of M.A.R.s for April 2004 for resident #10, revealed the following medication documentation errors: Facility staff on April 21st failed to document the administration or the omission of synthroid (thyroid supplement) and potassium chloride (supplement). Facility staff on April 11th, 23rd and 30th at 9:00 p.m. failed to document the administration or the omission of the risperdal (mental disorders). Review of M.A.R.s for April 2004 for resident #11, revealed the following medication documentation errors: Facility staff on April 30th failed to document the resident's daily pulse check "orders indicate	Z2660		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	02AL189	A. BUILDING _____ B. WING _____	5/24/2004

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
SOMERFORD PLACE - ANNAPOLIS	2717 RIVA ROAD ANNAPOLIS, MD 21401

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
Z2660	Continued From Page 2 hold toprol XL 50 mg (high blood pressure) per house policy". Facility staff on April 23rd and 25th failed to document the administration or the omission of the zyprexa.	Z2660		
Z2860	.26 A2 .26 Resident's Rights A. A resident of an assisted living program has the right to: (2) Receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State, local, and federal laws and regulations; This Requirement is not met as evidenced by: Based on review of resident M.A.R.s the facility failed to ensure the residents consistently received treatments (medications) and services (medication administration) that are adequate, appropriate and in compliance with relevant State, local and federal laws and regulations. Findings include: See Tag 2660	Z2860		

APPENDIX L

ANNE ARUNDAL COUNTY
DEPARTMENT OF AGING REPORT

Patient: Ethel Parkinson

Facility: Somerford Place

Summarization of Consult

- On August 3, 2002 Melissa Stewart, Executive Director at Somerford Place informed this worker of a family situation at Somerford Place that concerns her. Ethel Parkinson is a respite care resident at Somerford and her daughter, Rita Ormand, admitted her. Ms. Parkinson is alert and oriented X2, with a diagnosis of Alzheimer's Disease and reportedly has frequent windows of lucidity. Rita Ormand had explained that her mother was removed from what she considered a neglectful and mentally abusive situation with Ms. Parkinson's son and her brother, Ronald Parkinson. APS is investigating the home situation and the worker assigned is Jackie Berger. Ms. Ormand is seeking advise on how she might protect her mother from her brother. Ronald Parkinson, Ms. Ormand had Ms. Parkinson rescind a POA document appointing her and Ronald Parkinson and sign a new POA document appointing her alone. This worker warned her that due to her diagnoses, one could contest that she was not able to understand. This worker also discussed with her that .she could petition for guardianship in order to obtain sole control over her mother's finances and have final say regarding her living situation. Ms. Ormand faxed copies of the POA documents that she has for our records. This worker explained to Ms. Ormand that unless there is some type of documentation or evidence that shows Mr. Parkinson's visits are detrimental to Ms. Parkinson, this worker would not be able to advocate to restrict his visitation. Melissa Stewart also contacted this worker

regarding her concerns for Ms. Parkinson. Ms. Stewart stated that Ronald Parkinson "worries me and causes his mother to be tearful." Marie O'Shay, employee of Somerford Place, had to ask Mr. Parkinson to leave twice because he was making Ms. Parkinson upset by telling her that "they are holding you against your I'll get You out of here." This worker advised Ms. Stewart that restricting visitors access to residents is walking a fine line in terms of residents rights, but that the resident also has the right to refuse visitors. This worker advised Ms. Stewart to have a qualified staff member intervene when Ms. Parkinson gets upset and ask her if she would like her son to give her sonic time alone. Ms. Stewart asked this worker if Ms. Ormand could put a request for supervised visits or no visits in writing. This worker instructed her to consult their legal adviser due to the fact Mr. Ronald Parkinson is likely to contest the document.

- On August 15, 2002 Rita Ormand contacted this worker. Ms. Ormand was upset because APS worker, Jackie Berger, reported that the case would be "put on the back burner" due to the fact that Ms. Parkinson is in a sale place. Ms. Ormand does not feel that she is in a safe place due to the fact that her brother could come in at night and take her mother from the facility when management is not available. She also reported that she is seeking emergency guardianship due to this concern. She also reported that Michael Hotties. Attorney at Law settled her father's estate for Ronald Parkinson and changed her mother's deed on the house to her other brothers name, Alfred Parkinson. This worker suggested that she contact Medicaid Fraud and abuse unit through the States Attorney's office and report this development to her attorney and APS. She agreed.
- On August 18, 2002 Melissa Stewart contacted this worker, Ms. Stewart reported that yesterday at 9:00 AM, Mr. Parkinson was found looking through the 'Missing

Resident Log Book,' which contains all the residents' demographic information and emergency contact has been making all decisions and they appear to be in her mother's best interest. Ms. Ormand has also made a great effort to understand the disease process and how to effectively communicate with her mother. This worker informed Ms. Raleigh that Mr. Parkinson has not had any contact with our office. [MM]

- November 18, 2002. Melissa Stewart contacted this worker to inform this worker that Ms. Ormand believes that Mr. Parkinson's visits result in her mother complaining of pain. This worker asked if they were then documenting his visits and her PRN pain med administration. Melissa Stewart reported that she would instruct the nursing staff to do so. This worker commented that the court would likely subpoena this record and they should have all of their concerns regarding both parties documented. Melissa Stewart agreed to do so. (MM)

- On December 11, 2002 Ron Parkinson contacted this office regarding papers he was reviewing that stated the DOA recommended his mother stay at Somerford Place. He kept stating "I" recommended this referring to the Ombudsman program. We discussed this is not the role of an ombudsman and that he may be speaking of AERS recommendation. I did explain this was an evaluation performed by professionals but again it is a recommendation. Mr. Parkinson went on to say that prior to his mother's admittance to the facility she was home being cared for by 5 children 24 hours per day 7 days per week. He went to tell me of his sister claiming to take Ms. Parkinson to the beauty shop and instead had her placed at Somerford Place and it took awhile before the other siblings could tine her. [SL]

- December 16, 2002. This worker called Ms. Stewart regarding a message that she had left me concerning Mr.

Parkinson's visits. Margie Cotterman, DON, reported that the court had subpoenaed Ms. Parkinson's medical records and she also reported that Mr. Parkinson is talking to high-functioning residents about "getting out of here" and claiming that he "will get them an attorney." This worker informed Ms. Cotterman that this worker had suggested that Ms. Stewart develop a visitor conduct policy with corporate and to issue written warnings regarding the behavior if the behavior is seen as harmful to other residents. [MM 12/27/02]

- December 26, 2002. Ms. Stewart reported that she was sending faxes regarding the incident with Ronald Parkinson that occurred on December 12, 2002 mentioned above. See copy of facility documentation in case tile. The report reflects that on December 12, 2002 at 12:15 pm Mr. Parkinson was overheard telling another resident, Gertrude Wheeler to hang in there because he was taking care of everything. He was also seen giving the other residents candy. Ms. Stewart is concerned of residents with dietary restrictions and is concerned that he is making arrangements for residents without their representative's consent. Ms. Stewart will issue a letter regarding his behavior. A copy is enclosed. [MM12/27/02]

- January 7, 2003. This worker received a subpoena for all documents concerning this consult. This worker will seek advice from our attorney. [MM 1/7/03]

- Ron Parkinson contacted this office again and I explained to him I did check with AERS and no evaluation had been done therefore, the DOA cannot be quoted as making such recommendations. He agreed the documents were from his sister's attorney's office. I explained to him while this is a guardianship matter and a hearing was set for January 29th this program would be speaking to our legal office and see him on that date. [SL-01/09/03]

APPENDIX M

Life Passages • Care Consultants, Inc.

Karen S. Kauffman, PhD, RN, CRNP, CS
Geriatric Nurse Practitioner and President

Post Office Box 3882, Baltimore, MD 21217
Phone: 410.669.5638 Fax: 410.669.2471
E-mail: life.passages@verizon.net

REPORT OF IN-HOME ASSESSMENT

Name of person assessed:	Ethel Sears Parkinson DOB: 08.14.1924
Social Security #:	220.14.6634
Date in-home assessment conducted:	07.31.02
In-home Assessment location:	207 Shiley Street, Annapolis, MD 21401
Purpose of assessment:	To determine Level of Care
Data sources:	One in-home assessment; Interview with daughter, Rita Ormond, and granddaughter, Kathryn Ormond
Assessment conducted by:	Karen S. Kauffman, PhD, RN, CRNP, CS; Geriatric Nurse Practitioner
Present during assessment:	Rita Ormond, daughter, Kathryn Ormond, granddaughter

SOCIAL HISTORY: Mrs. Ethel Parkinson is a 77-year-old, short, and obese widow who was diagnosed with dementia in 1998, and is now exhibiting cognitive signs of moderate—advanced stages of this progressive and debilitating disease. She currently resides in her own home and requires 24-hour care and supervision. Prior to his death of a cerebral aneurysm June 17, 2002, Mr. Parkinson had been the 24-hour caregiver.

Since Mr. Parkinson's death on June 17, 2002, all five of her children provided in-home care and supervision until the end of June. Since July, three of the five children (Ronald, Alfred, and Gary Parkinson), and a daughter-in-law (Helen Parkinson, Gary's wife) have been providing the necessary 24-hour care and supervision on rotating shifts. Gary and Helen Parkinson stay together with Mrs. Parkinson. Recently,

Kathryn Ormond, a granddaughter has been staying with Mrs. Parkinson on a limited basis, but will increase her time in August.

Rita Ormond, Mrs. Parkinson's only daughter, is the Health Care Agent and accompanies her mother to medical offices since 1997, stays with her nights before and usually mornings of medical appointments, and oversees the medical regimen prescribed by the physicians.

MEDICAL HISTORY:

- Hypertension controlled in the past with medication; no longer on any antihypertensive medication.
- ? History of TIAs or "mini strokes
- Depression

* * * *

gave way. No apparent injuries were noted, but was extremely upset for several hours.

ALLERGIES:

- None known.

DIET:

- Low cholesterol, low salt
- Receives Meals on Wheels—2 meals a day
- Eats cookies and high salt foods (apparently provided by sons and daughter-in-law caregivers)

EXERCISE:

- None

ACTIVITIES OF DAILY LIVING (ADLs):

- Medication administration
  - Requires total assistance
- Locomotion
  - Ambulates by self.

- Walks rapidly with short steps with forward flexion. Needs to be reminded to slow down to prevent loss of balance and falls.
- Has chronic pain in back and both legs.

- Transferring and repositioning:
  - Independent
- Dressing
  - Needs assistance with putting on bra.
- Bathing
  - Needs physical assistance of 1 person.
- Eating
  - Needs supervision and help with cutting food.
- Toileting
  - Can go to the bathroom by self.
  - Occasional inappropriate overuse of toilet tissue
- Continence
  - Occasional incontinent of bladder
  - Continent of bowel activity.

INSTRUMENTAL ACTIVITIES OF DAILY LIVING (IADLs):

- Total dependence.

IMPRESSION: Mrs. Parkinson has moderate-advanced dementia probably of the vascular type, and requires 24-hour supervision and care. It is my professional opinion that she is neither capable of understanding complex legal issues nor realizes the significance of her signature an any legal papers.

Given the suspicion of elder abuse by her 3 older sons and daughter-in-law, she is at great risk for drug overdosing, falls, poor nutrition, and rapid decline of her already compromised cognitive and physical function.

RECOMMENDATIONS (In addition to those for immediate intervention):

* * * *

Karen S. Kauffman, PhD, RN, CRNP, CS
Geriatric Nurse Practitioner
Individual Profile

Care Consultant to People with Increasing Health Care Needs

2001—Present: President, Life Passages • Care Consultants, Inc.
1999 2001: Executive Director, HUPK&K Care Consultants, LLC

Primary Areas of Practice

Gerontology Nursing, Health Care, Alzheimer's Disease and Related Dementias

Secondary Areas of Practice

Ethnography/Descriptive Research, Population/Community-based Health Planning

Education

PhD University of Pennsylvania (1992)
MSN University of Pennsylvania: Gerontological Nurse Practitioner (1987)
BSN Allentown College of St. Francis de Sales (1984)
Diploma Geisinger Medical Center School of Nursing (1970)

Additionally

- Geriatric Nurse Practitioner, Certified (National and State of Maryland)
- Member, U.S. Senate Special Committee on Aging Work-group on Assisted Living—representing National Conference of Gerontological Nurse Practitioners

- Director on the Board of the Alzheimer's Association, Greater Maryland Chapter—Chair, State Public Policy Committee
- Experienced in Acute Coronary, Surgical, Medical, and Respiratory Care; Oncology; Geriatrics; and Nursing Administration and Education
- Formerly, Ethnographer and Co-Researcher on NIH funded grant, New York University
- Formerly, Assistant Professor, University of Maryland, School of Nursing
- Formerly, Assistant Professor, Case Western Reserve University, Cleveland, OH
- Formerly, Assistant Course Faculty, University of Pennsylvania School of Nursing
- Formerly, Lecturer, Johns Hopkins University School of Nursing
- Formerly, Visiting Professor from CWRU to Khon Khan University, northeast Thailand (Sponsored by United States Agency for International Development)
- Formerly, Senior Consultant, Company Enter. A business management restructuring firm
- Member, American Nurses Association and Maryland Nurses Association
- Member, National Conference of Gerontological Nurse Practitioners
- Member, American Geriatrics Society
- Member, Gerontological Society of America
- Member, National Association of Professional Geriatric Care Managers

- Member, Sigma Theta Tau International Honor Society for Nursing
- Founder and former Co-Director of ELDERSUP (Community-based support group for persons caring for and/or about elderly relatives)
- Formerly, Director on the Board of Memorial Apartments (Episcopal housing for low-income older adults in Baltimore)
- Formerly, Director on the Board of the Samaritan Community (a Episcopal Church-based social agency meeting varied needs of underserved and disadvantaged urban residents)
- Formerly, Director on the Board of The Committee for a Better North Philadelphia
- Conducted seven ethnographic field studies between 1988 and 1999.
- Presented over 45 papers to regional, national, and international audiences (1988-1999)
- Selected to Who's Who Among America's Teachers (1998)
- Awarded University of Pennsylvania Opportunity Scholarship for Outstanding Scholarly Contributions to the field of Nursing (1992)
- Cited by The House of Representatives of the Commonwealth of Pennsylvania for "outstanding service to the poor and needy citizens of North Philadelphia"

Publications National/international journals/books on health care research, aging, and long term care.

APPENDIX N

[Filed July 1, 2001]

LAST WILL AND TESTAMENT

of

ALFRED M. PARKINSON, JR.

I, ALFRED M. PARKINSON, JR., at Anne Arundel County, Maryland, declare this as and for my Last Will and Testament, hereby revoking all prior Wills and Codicils heretofore made by me.

ITEM I

As used in this Last Will and Testament, my "spouse" or "wife" shall refer to ETHEL E. PARKINSON. I have five children, namely my sons, RONALD W. PARKINSON, ALFRED M. PARKINSON III, GARY L. PARKINSON and DAVID B. PARKINSON; and my daughter, RITA E. ORMOND. Any references to my "descendants" or Issue" shall refer only to my said children, and their legitimate issue and/or descendants.

ITEM II

I direct that my remains are to be cremated, and my ashes dispersed in the discretion of my survivors. Any expense of the foregoing, and any related funeral charge. may be paid by my Personal Representative in such amounts as he may deem proper, without regard to any limit prescribed by law, and without Order of Court.

ITEM III

I bequeath my tangible property of personal or domestic use to my wife, ETHEL E. PARKINSON. If she shall have predeceased me, I direct that all of my tangible property of personal or domestic use shall be distributed by my Personal Representative in accordance with a memorandum I have prepared. and which is filed with my Will or

* * * *

ITEM VII

If my said wife shall fail to survive me by thirty (30) full days. It shall be presumed that she predeceased me,

ITEM VIII

I hereby appoint my son, RONALD W. PARKINSON, as my Personal Representative, without bond.

In addition to the powers conferred upon Personal Representative by law, my Personal Representative shall have the following powers, without adjudication, order or direction of Court:

A. To sell, pursuant to option or otherwise, at public or private sale and upon such terms as my Personal Representative shall deem best, any real or personal property belonging to my estate, without regard to the necessity of such sale for the purpose of paying debts, taxes or legacies.

B. To retain any or all of such property not so required without liability for any depreciation thereof.

C. To assign or transfer certificates of stock, bonds or other securities.

D. To adjust, compromise end settle any arid all claims in favor of, or against, my estate.

E. To conduct and carry on all business now conducted by me and to do all things necessary or proper in the usual course of business until such time as the business can be sold or distributed as a going concern or otherwise; and my Personal Representative shall be exonerated from any loss which may result thereby.

F. To utilize the services of an attorney, accountant and any other professional as may be necessary or

desirable in the administration of this, my Last Will and Testament, using any expense thereof as an expense of my estate.

G. To do any and all things necessary or proper to complete the administration of my estate.

IN TESTIMONY WHEREOF, I sign my name under seal this 7th day of July, 2000.

/s/ Alfred M. Parkinson, Jr.
ALFRED M. PARKINSON, JR., Testator

SIGNED, SEALED, PUBLISHED AND DECLARED by ALFRED M. PARKINSON, JR. as his Last Will and Testament, in the presence of us, who at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

/s/ Illegible

/s/ Illegible

/s/ Illegible

/s/ Illegible

/s/ Illegible

/s/ Illegible

APPENDIX O

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS:

That I, Ethel E. Parkinson, a legal resident of the State of Maryland, residing at 207 Shiley Street, Annapolis, MD 21401, have made, constituted, and appointed Rita P. Ormond and Ronald W. Parkinson (collectively and individually referred to as my "Attorney"), whose present addresses are, respectively, 613 Wayward Dr., Annapolis, MD 21401 and 548 Rockwood Court, Annapolis, MD) 21401 my true and lawful attorney to act as follows, that is to say:

GIVING AND GRANTING unto my Attorney full power:

1. To lease, sell, insure, transfer, mortgage, pledge, exchange, or otherwise dispose of or encumber any and all of my property, real, personal, or mixed, and to execute and, deliver good and sufficient deeds or other instruments for the lease, conveyance, mortgage, or transfer of the same.

2. To collect, sue for, compromise, or otherwise dispose of any claim, debt, rents, or share in any estate in which I now or hereafter may have an interest.

3. To eject, remove, or relieve tenants or other persons from, and recover possession of, any property, real, personal, or mixed, in which I now or hereafter may have an interest.

4. To buy, receive, lease, accept, or otherwise acquire in my name and for my account property, real, personal, or mixed, upon such terms, consideration, and conditions as my Attorney shall think proper.

5. To institute, maintain, defend, compromise, arbitrate, or otherwise dispose of any and all actions, suits, attachments, or other legal proceedings for or against me.

6. To deposit in my name and for my account with any bank, banker, trust company, or other banking or lending

institution all moneys which may come into his/her hands as my Attorney and all bills of exchange, drafts, checks, promissory notes, and other securities for money payable or belonging that, purpose to sign my name and endorse the same for deposit or collection, and from time to withdraw any and all moneys deposited with such bank, banker, trust company, or other banking or lending given that moneys so belonging to me, and for that purpose to draw checks and drafts thereon in my name in the manner provided herein.

7. To borrow money in my name when deemed necessary by my Attorney upon such terms as to my Attorney appear proper and to execute such instruments as may be requisite for such purpose

8. To vote and deal in and with any and ail interests in any corporations, partnerships, and other firms, whether represented by stock or other securities.

9. To sign, make, execute, and file in my name and on my behalf before the Internal Revenue Service, United States Treasury Department and with any state or local department of taxation, any and all tax reports, agreements, settlements, documents, returns, and estimates; to file and prosecute in my name and on my behalf before the Internal Revenue Service, United States Treasury Department, and any state or local department of taxation all claims for refund, abatement, or credit of any and all taxes which have theretofore been or may hereafter be, in the opinion of my Attorney, unlawfully or illegally assessed or collected I from me by said tax departments, and to do any other necessary acts pertinent thereto.

10. To make any payments which my Attorney may deem necessary or appropriate for my care, maintenance, support, and general welfare, including, but without limiting the generality hereof, the payment of arty hospital, medical, dental, nursing, or other expenses occasioned by any illness, of any nature, of mine.

11. To surrender life insurance policies and receive the cash surrender value thereof, to borrow thereon, to pay the premiums or for any other purpose, to change the name or names of any beneficiary or beneficiaries named therein, and to receive or apply to the payment of premiums any dividends as which may be or become payable, and to exercise any of the options in such policies.

12. To do any and all things, whether or not above enumerated which I could to in person without the obligation on the part of any person dealing with my Attorney to ask further authorization as a prerequisite to obligating the undersigned in any manner and without obligation on the part of any person dealing with my Attorney to see Ito the application or use of any funds, proceeds, or property passing to my Attorney in my name or in my Attorney's own name in connection with any such transaction.

13. To lease Or otherwise acquire such safe deposit boxes as my Attorney may deem necessary for the preservation of my property and further to have access to any and all safe deposit boxes of which I am now or may be possessed and to remove therefrom any articles a personal property belonging to me including, but not limited to, securities, debt instruments, my last will and testament, or any other articles contained therein.

14. To use all means and process in the law for the full and effectual execution of the business herein described; and in my name to make and execute due acquaintance and discharge, and to appear for and represent me before any governor, judge, justice, officer, and minister of the law whatsoever in any court of judicature, and there on my behalf to institute, answer, defend, and reply to all actions, causes, matters, an I things whatsoever relating to these presents.

I hereby ratify and confirm all and whatsoever my Attorney shall lawfully do or cause to be done by virtue of these presents.

FURTHER, I do authorize my Attorney to perform all necessary acts and generally to do any and all acts on my behalf in any other matter or thing pertaining or belonging to me with the same validity as I could effect if personally present.

FURTHER, I do authorize either Rita E. Ormond and Ronald W. Parkinson as try Attorney to act individually and without providing notification to or receiving the consent of the other.

THIS POWER OF ATTORNEY shall not be affected by my disability.

AND I HEREBY DECLARE that any act or thing lawfully done hereunder by my Attorney shall be binding on myself and my heirs, personal representatives, successors, and assigns.

PROVIDED, however, that all business transacted hereunder for me or for my account shall be transacted in my name, and that all endorsements and instruments executed by my Attorney for the pun we of carrying out the foregoing powers shall contain my name, followed by that of my Attorney and the designation "Attorney-in-Fact,"

FURTHER, this Power of Attorney shall remain in full force and effect until the occurrence of the first of the following circumstances: (1) my death; (2) the death of my Attorney; (3) the revocation of this Power of Attorney by me in writing. And in the event or case of the revocation a this Power of Attorney, expressed or implied, by death or otherwise, this Power of Attorney, as to all matters and things which after said revocation shall be done by my Attorney by virtue or in pursuance or under color of this Power of Attorney , shall, so far as any person, fin; corporation, or other legal entity is concerned with such matters end things be as binding upon .me, my heirs, personal representatives, successors, assigns, executors, and administrators as the so

me would have been on me if this Power of Attorney had riot been revoked unless notice in writing of said revocation shall have been previously given to such person, firm, corporation, or other legal entity by me or my heirs, personal representatives, successors, assigns, executors, or administrators, or by some other Person or persons interested in the property to which this Power of Attorney refers, and unless such notice be given, I covenant, promise, engage, and bind myself, my heirs, personal representatives, successors, assigns, executors, and administrators to and with such person, firm, corporation, or other legal entity that I, my heirs, persona' representatives successors, assigns, and administrators shall and do allow, ratify, and confirm as good, valid, and effectual effectual against me, them, and ray estate whatsoever shall or may be done by my Attorney after said revocation, so far as such person, firm, corporation, or other legal entity shall or may in any manner be concerned until notice shall be given as aforesaid.

It is understood and agreed that my Attorney shall not be held responsible or liable for any loss or losses whatsoever that may result from any act or acts done in good faith by my Attorney under and b y virtue thereof.

IN WITNESS WHEREOF, I have hereunder set my hand and seal this 10th day of February, 1998.

WITNESS:

/s/ Ethel E. Parkinson
ETHEL E. PARKINSON
_____(SEAL)

Catherine A. Lewis, Witness

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that I am a duly commissioned, qualified, and authorized Not try Public in and for said State, and that the Grantor in the foregoing Power of Attorney, who is personal); known to me (or satisfactorily proven) appeared before me this day and executed said instrument after the contents thereof had been read and duly explained to her and acknowledged, the execution of said instrument to be her free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 10th day of February, 1998.

/s/ Catherine A. Lewis [Seal]
CATHERINE A. LEWIS
Notary Public

My Commission Expires: March 31, 2001

APPENDIX P

THIS POWER OF ATTORNEY AUTHORIZES THE PERSON(S) NAMED BELOW AS MY ATTORNEY(S)-IN-FACT TO DO ONE OR MORE OF THE FOLLOWING: TO SELL, LEASE, GRANT, ENCUMBER, RELEASE OR OTHERWISE CONVEY ANY INTEREST IN MY REAL PROPERTY AND TO EXECUTE DEEDS AND ALL OTHER INSTRUMENTS ON MY BEHALF, UNLESS THIS POWER OF ATTORNEY IS OTHERWISE LIMITED HEREIN TO SPECIFIC REAL PROPERTY.

DURABLE GENERAL POWER OF ATTORNEY
ETHEL ELAINE PARKINSON

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KNOW BY THESE PRESENTS, that I, ETHEL ELAINE PARKINSON, of Anne Arundel County, State of Maryland, do hereby constitute and appoint my daughter, RITA E. PARKINSON ORMOND, and my son, RONALD W. PARKINSON, acting jointly or individually, to be my true, sufficient and lawful attorneys-in-fact to act for me in my name, place and stead; provided, however, that if both or the survivor of my daughter, RITA E. PARKINSON ORMOND, and my son, RONALD W. PARKINSON, is unable to act by reason of written resignation, death or disability as my said attorneys-in-fact, then I hereby constitute and appoint my son, DAVID B. PARKINSON, to serve as my attorney-in-fact in their place and stead. All references in this instrument to "my attorney-in-fact" refer to the person or persons acting as my attorney-in-fact or attorneys-in-fact at the pertinent time.

I hereby create a Durable General Power of Attorney (referred to as "this Power"). This Power is effective imme-

diately upon its execution and shall not terminate or otherwise be affected by my subsequent disability or incapacity. Unless this Power shall sooner be revoked, my attorney in-fact shall have and may exercise the powers hereby granted until the date of my death, upon which date this Power terminates.

I give my attorney-in-fact a full and universal power of attorney, giving and granting to my attorney-in-fact fall power and authority to do and perform each and every act and thing that I may or can do personally or through any person, in any location or jurisdiction where I could act personally or through any person, and that my attorney-in-fact shall deem in the discretion of my attorney-in-fact to be proper, expedient or advisable, including all powers and discretions granted by common law, statute or any rule of court; and without limiting the universal power of attorney so given hereby to my attorney-in-fact, but merely by way of example, I give to my attorney-in-fact the powers described in Article One and elsewhere in this Power.

All powers granted in this Power are granted with the understanding that they will be used for my benefit and on my behalf and will be exercised only in a fiduciary capacity.

ARTICLE ONE

Powers

1.1 Real Property Transactions. I give my attorney-in-fact the power to act on my behalf in all real property matters, including but not limited to the powers listed below, with respect to any interest in or right incident to real property that I own when this Power is executed or that is acquired thereafter, including but not limited to remainder and life estate interests, whether the real property is located in this state or elsewhere, including but not limited to my primary residence, other residences, vacation properties, commercial properties, investment properties, and rental properties; and

specifically including, but not limited to, the following real property: 207 Shiley Street, Annapolis, Maryland 21401.

(a) Acquisition. Buy, lease, receive, or otherwise acquire an interest in real property.

(b) Transfer. Sell, exchange, convey, release, mortgage, partition, develop, lease or sublet, or otherwise dispose of any estate or interest in real property.

2.5. Exculpation of My Attorney-in-fact. My attorney-in-fact shall not be liable to me or my estate, my heirs, my successors, and assigns for any action taken or not taken in good faith, but shall be liable for any acts or omissions attributable to bad faith, willful misconduct or gross negligence on the part of my attorney-in-fact.

2.6. Indemnity of Attorney-in-fact. In consideration of the premises and other good and valuable consideration, I agree to indemnify, defend and hold harmless my attorney-in-fact from any and all claims, demands, responsibilities, actions and causes of action of whatsoever nature or character, including reasonable attorneys' fees, that have been or that may hereafter be asserted by any person, firm or corporation whatsoever, claiming independently or by, through or under me, for any matters in any way connected with, arising out of, or resulting from any and all acts (or omissions) of my attorney-in-fact done under and by virtue of this durable power of attorney and which acts or omissions are not attributable to gross negligence, willful misconduct or bad faith on the part of my attorney-in-fact.

2.7. Revocation and Amendment. I revoke all prior General Powers of Attorney that I may have heretofore executed; provided, however, that this paragraph shall not affect, modify or terminate in any way any Advance Directive and Appointment of Health Care Agent, any Durable Power of Attorney for Health Care, or any Declaration heretofore executed by me, or any special, restricted or limited power or

powers of attorney I may heretofore have given in connection with any borrowing, banking or other commercial transaction.

2.8. Right to Revoke. I retain the right to revoke or amend this document and to substitute other attorneys-in-fact in place of my attorney-in-fact. Amendments to this document shall be made in writing by me personally (not by my attorney-in-fact) and they shall be attached to the original of this document and recorded in the same county or counties as the original, if the original is recorded.

2.9. Designation of Guardian. Inquest that no guardianship proceeding for my property be commenced in the event of my disability, but in the event it nevertheless becomes necessary for any court to appoint a guardian for my property, I direct that my daughter, RITA E. PARKINSON ORMOND, and my son, RONALD W. PARKINSON, acting jointly or individually, shall serve as such guardians. If both or the survivor of my daughter, RITA E. PARKINSON ORMOND, and my son, RONALD W. PARKINSON, shall be unable or unwilling to serve as guardians hereunder, or having served as guardians shall cease to serve, then I direct that my son, DAVID B. PARKINSON, serve as such guardian of my property in their place and stead. I further direct that any guardian of my property who shall at any time be appointed by any court shall be excused from giving bond.

ARTICLE THREE

General Provisions

3.1 Signature of Attorney-in-fact. My attorney-in-fact may but shall not be required to use the following form when signing on my behalf pursuant to this Power: "ETHEL ELAINE PARKINSON by [NAME], attorney-in-fact"

3.2. Photostatic Copies. Persons dealing with my attorney-in-fact may rely fully on a photostatic copy, facsimile or other reasonable reproduction or duplication of the executed original of this Power.

3.3. Severability. If any of the provisions of this Power are found to be invalid for any reason, the invalidity shall not affect any of the other provisions of this Power, and all invalid provisions shall be wholly disregarded.

3.4. Captions. The captions appearing in this instrument are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this instrument.

3.5. Governing Law. All questions pertaining to validity, interpretation, and administration of this Power shall be determined in accordance with the laws of the State of Maryland.

3.6. Acknowledgment. I understand that this Durable General Power of Attorney is an important legal document. I understand its provisions, including the following, which my lawyer explained to me before my execution of the document:

(a) Broad Powers. This document grants my attorney-in-fact broad powers to sell, convey, encumber, and otherwise dispose of my real and personal property.

(b) Effective Immediately. This Durable General Power of Attorney is effective immediately upon execution by me.

(c) Effective Until Revoked. The powers granted in this Durable General Power of Attorney will exist for an indefinite period of time unless I limit their duration by the terms of this Durable General Power of Attorney or revoke this Durable General Power of Attorney. These powers will continue to exist notwithstanding my subsequent disability or incapacity.

(d) Right to Revoke. I have the right to revoke or terminate this Durable General Power of Attorney at any time. Any such revocation or termination shall be made in writing and delivered to my attorney-in-fact.

AS WITNESS my hand and seal this 20th day of July, 2002.

WITNESS:

/s/ Catherine A. Lewis
CATHERINE A. LEWIS
Signature

/s/ Ethel Elaine Parkinson
ETHEL ELAINE PARKINSON
ETHEL ELAINE PARKINSON

STATE OF MARYLAND
COUNTY OF Anne Arundel, to wit:

I HEREBY CERTIFY that on this 20th 2002, before me, tine subscriber, a Notary Public in and for the State and County Aforesaid, personally appeared ETHEL ELAINE PARKINSON, and she acknowledged that she executed the foregoing as her free and voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

[Seal]

/s/ Illegible
Notary Public
My commission expired: April 14, 2004

APPENDIX Q

ADVANCE DIRECTIVE AND APPOINTMENT OF HEALTH CARE AGENT

ARTICLE ONE
Appointment of Health Care Agent

KNOW BY THESE PRESENTS, THAT I, ETHEL ELAINE PARKINSON, of Anne Arundel County, State of Maryland, do hereby constitute and appoint my daughter, RITA E. PARKINSON ORMOND, as my true and lawful Health Care Agent to make health and personal care decisions for me in my name, place and stead as hereinafter set forth. If my daughter, RITA E. PARKINSON ORMOND, is unable to act by reason of written resignation, death or disability, or is unwilling for any other reason to serve or continue to serve as my Health. Care Agent in accordance with this Advance Directive and Appointment of Health Care Agent, then I hereby constitute and appoint my son, DAVID B. PARKINSON, to serve as my Health Care Agent in her place and stead..

All references in this instrument to "my Health Care Agent" are to the person or persons acting as my Health Care Agent or Health Care Agents at the pertinent time.

ARTICLE TWO
When Directive Is Effective

2.1. Effective Date. This Advance Directive and Appointment of Health Care Agent ("this Directive") shall be effective, and my Health Care Agent's authority shall become operative, upon my execution hereof; provided, however, that the exercise of my Health Care Agent's authority hereunder shall always be subject to my own expression of my desires according to the provisions of Section 2.3. The powers granted in this Directive shall exist for an indefinite period of time unless, after the date of its execution, I expressly revoke this Directive.

2.2. Durability. This Directive shall not be affected or terminated by reason of any disability suffered by me, and the powers set forth herein shall continue notwithstanding any subsequent disability or incapacity of mine.

2.3. Directive Subject to My Decisions. Any other provision of this Directive notwithstanding, to the extent I am able to understand my condition and the possible risks, benefits and burdens of medical treatment, and am able to communicate a reasonably informed decision, my own expressions of my desires and decisions shall at all times supersede the effect of this Directive.

2.4. Revocation of Prior Powers. By signing this Directive, I hereby revoke all Durable Powers of Attorney for Health Care, all Advance Medical Directives and Declarations, and all Appointments of Health Care Agent heretofore executed by me.

ARTICLE THREE
Definitions

3.1. Life-Sustaining Procedures. For the purposes of this Directive, the term "Life-Sustaining Procedures" refers to medical procedures, treatments or interventions that use mechanical or other artificial means to sustain, restore or supplant a vital function, and shall include the administration of nutrition or hydration artificially.

3.2. Comfort Care. For the purposes of this Directive, the term "Comfort Care refers to the use of any medication, treatment or procedure intended to relieve pain and suffering or

* * * *

8.2. Other Powers of Attorney. This Directive shall not affect, modify or terminate in any way any special, restricted or limited rower or powers of attorney I may have heretofore given in connection with any borrowing, banking or other commercial transaction, and shall not affect, modify or

terminate any Durable General Power of Attorney executed by me.

8.3. Photocopies and Facsimiles. All photocopies, facsimiles and all other reasonable reproductions or duplications of this Directive after valid execution hereof, shall be as effective as the original.

8.4. Severability. If any of the provisions of this Directive shall be invalid or unenforceable for any reason, then such invalidity shall not affect any of the other provisions herein contained, and such invalid or unenforceable provisions shall be wholly disregarded.

8.5 Governing Law. All questions pertaining to the validity, construction, interpretation and administration of this Directive shall be determined in accordance with the laws of the State of Maryland.

By signing below, I indicate that I am emotionally and mentally competent to make this Directive and that I understand the purpose and effect of this document.

AS WITNESS my hand and seal this 20th day of July 2002.

/s/ Ethel Elaine Parkinson
ETHEL ELAINE PARKINSON

The Declarant signed of acknowledged signing the forgoing Directive in my presence and based upon my personal observation appears to be a competent individual.

WITNESS:

/s/ Catherine A. Lewis Catherine A. Lewis	1006 Bay Ridge Avenue Annapolis, Md. 21403
/s/ Cynthia L. Rafferty Cynthia L. Rafferty	804 Redwood Trail Crownsville, Md. 21032

APPENDIX R

AFFIDAVIT OF RONALD W. PARKINSON

1. I, RONALD W. PARKINSON, STATES AS FOLLOWS;

2. I AM OVER EIGHTEEN YEARS OLD AND AM COMPETENT TO THE FACTS AND MATTERS SET FORTH IN THIS AFFIDAVIT.

3. I AM THE PLAINTIFF, RONALD W. PARKINSON, SON OF ETHEL E. PARKINSON

4. I HAVE SEEN LEWIS C. PRICE CHIEF EXECUTIVE OFFICER AND PRESIDENT OF SOMERFORD CORP. AT (SOMERFORD PLACE) ANNAPOLIS LOCATION AT 2717 RIVA ROAD, ANNAPOLIS, MARYLAND ON MORE THAN A FEW OCCASIONS.

5. I HAVE HEARD LEWIS C. PRICE SPEAK AT SOMERFORD PLACE ANNAPOLIS LOCATION AT 2717 RIVA ROAD, ANNAPOLIS MARYLAND TO THE FAMILY'S OF THE RESIDENT'S OF SOMERFORD PLACE.

6. I HAVE RECEIVED MAIL FROM SOMERFORD CORP., AND ANNAPOLIS HERITAGE PARTNERS, LLC, ABOUT VISITATION AT THEIR SOMERFORD PLACE 2717 RIVA ROAD, ANNAPOLIS MARYLAND LOCATION

7. I RONALD W. PARKINSON AND MY BROTHER GARY L. PARKINSON HAVE ATTENDED COURT ORDERED MEETING ABOUT VISITATION AT SOMERFORD WITH MERLE WEXLER-VICE PRESIDENT OF RESIDENT SERVICES AND ALZHEIMER'S CARE FOR SOMERFORD CORP.

8. I HAVE RECEIVED LETTER'S FROM THE COURT APPOINTED GUARDIAN RITA E. ORMOND

FROM MELISSA STEWART OF SOMERFORD PLACE-ANNAPOLIS AND LEWIS PRICE, PRESIDENT AND CHIEF EXECUTIVE OFFICER SOMERFORD CORP. ABOUT VISITATION AT SOMERFORD PLACE ANNAPOLIS LOCATION 2717 RIVA ROAD

I DECLARE UNDER PENALTY OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: July 1, 2005 /s/ Ronald W. Parkinson
RONALD W. PARKINSON

APPENDIX S

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

Civil No. 02-C-04-102234

RONALD M. PARKINSON,

Plaintiff,

v.

SOMERFORD CORP.,

Defendant.

AFFIDAVIT OF LEWIS C. PRICE

I, LEWIS C. PRICE, state as follows:

1. I am over eighteen years old and am competent to testify to the facts and matters set forth in this affidavit. I have personal knowledge of the facts and matters set forth in this affidavit.

2. I am currently the Chief Executive Officer and President of Somerford Corp. ("Somerford").

3. Somerford does not own the real property or improvements located at 2717 Riva Road, Annapolis, Maryland commonly known as Somerford Place (the "Facility").

4. Somerford does not manage or operate the Facility and is not the licensee for the Facility.

I DECLARE UNDER PENALTY OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE FOREGOING IS TRUE AND CORRECT.

Date: February 2, 2005 /s/ Lewis C. Price
LEWIS C. PRICE

APPENDIX T

Lewis Price, Ph.D.
President and Chief Executive Officer
Lafayette College, BA
University of Maryland, MA and PH.D.

Lew is proud of Somerford. Speaking of the people at Somerford, he says they're the reason Somerford stands out. He should know. Working in the profession since 1977, he's traveled many miles, as he still does, to see how the people are doing.

"Somerford is different because we're long on experience. Our senior management is among the most seasoned in the country. Yet, because we're a small organization, we're close to our work. Each of us gives hands-on support throughout the organization."

In his years with Manor Care, a Fortune 500 Company, Lew applied his extensive experience operating assisted living and skilled nursing facilities across the country. He spearheaded the development of specialized dementia-specific care in these facilities—close to 40 such residences were developed by the Fortune 500 Company under Lew's guidance.

Lew feels it's critical for senior management to stay close to our communities, to have ongoing frequent contact with the residents and their families, and to continually develop ways to better meet their individual needs.

"Working for Somerford is a feeling. We strive to have staff at all communities feel they are an essential member of our Somerford Family. It's a culture of caring."

Lew spends the majority of his time visiting Somerford communities. Meet Lew and you'll understand why—happy residents and satisfied family members motivate him. You can see it his eyes.

In addition to his corporate duties as President and CEO and member of the Board of Directors. Lew operates the Mid-Atlantic Region. Lew has more than 20 years of management experience in senior housing and long-term care, with 16 at Manor Care where he was an officer of the company. Lew held various operating roles including District Vice President of Operations with P&L responsibility for $275 million in annual revenues. In addition, Lew was Vice President of various corporate functions including health care planning and development, strategic planning product management, and human resources. Lew led the development and national roll out o Manor Care's Arden Courts Alzheimer's Assisted Living. Manor Care's Springhouse Assisted Living and the mid-priced Linden Village also were developed under Lew's direction.

Michael Carrick, M.D.
Senior Vice President West Coast Operations
Somerford Medical Director
Pacific Union College, BS
Loma Linda University School of Medicine

After 20 years in private practice, Michael made a significant change in his career. Firsth and had learned the painful losses associated with Alzheimer's Disease in the family and he vowed to do something about it.

Michael and his family experienced the stages of denial, anger, and embarrassment as the

* * * *

Locations

Click on any of the locations below for more information.

California

- Encinitas
- Fresno
- Fresno - Corp Office
- Redlands
- Roseville
- Stockton

Delaware

- Newark

Maryland

- Annapolis
- Columbia
- Frederick
- Gaithersburg - Corp Office
- Hagerstown

New Jersey

- Emerson (Cypress Gardens)
- Wayne (Cypress Gardens)
- West Orange (Cypress Gardens)

APPENDIX U

Somerford Place
2717 Riva Road
Annapolis, MD 21401
Tel: (410) 224-7300 Fax: (410) 224-5732

For our residents' convenience, we now have available, through Elderlife Financial, an affordable family payment program. Please visit the web site www.elderlifefinancial.com.

Local Links:

—American Society of Aging
—Anne Arundel County Dept. of Aging
—Anne Arundel Senior Services Provider Group
—Elderlife Financial
—Guide to Retirement Living
—Johns Hopkins Department of Neurology
—Legal Aid Bureau of Maryland
—Maryland Office on Aging
—National & Local Alzheimer's Association
—National Aging Information Center
—Social Security Administration

* * * *

Melissa Stewart
Executive Director

2717 Riva Road
Annapolis, MD 21401

410-224-7300
410-224-5732 (Fax)
edannapolis@somerford.com

Somerford Place®
Alzheimer's Assisted Living

www.somerfordplace.com

Where Peace of Mind Begins

Call us today or visit our website for more about how we can help you.

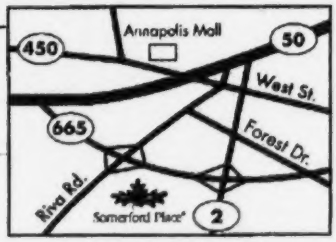
Alzheimer's Assisted Living and Related Dementia care

Short-Term Care

Professionally Trained Staff

Supportive Family Services

Free Educational Seminars



Somerford Place®

Alzheimer's Assisted Living

410-224-7300

2717 Riva Road
Annapolis, MD 21401

Also Open in Columbia

www.somerford.com

APPENDIX W

02/15/2005

M.D.A.T. REAL PROPERTY SYSTEM
ANNE ARUNDEL COUNTY

OWNER INFORMATION
DISTRICT: 02 SUBD: 000 ACCT NO: 10717503

USE: COMMERCIAL

OWNER NAME: ANNAPOLIS HERITAGE PARTNERS LLC

PRINCIPAL RESIDENCE NO

MAILING ADDRESS: C/O CHESAPEAKE
HEALTHCARE CORP
19642 CLUB HOUSE RD
STE 620
GAITHERSBURG, MD
20886-3046

TRANSFERRED

FROM: GEARING, SINCLAIR DATE: 07/09/1999

PRICE: $640,000

DEED REFERENCE: 1) / 9296/ 596
2)

TAX EXEMPT: NO

PRESS: <F1> LOCATION INFO <F2> VALUE INFO
<F3> TRANSFER/STRUCTURE INFO
<F6> SELECT NEXT PROPERTY

APPENDIX X

Place of its right to insist upon strict compliance by you with all of the toms and provisions of this Agreement.

XII. Assignment

You may not assign this Agreement.

XIII. Family Visits

Somerford Place encourages family and friends to visit, subject to Somerford Place's House Rules. Somerford Place encourages regular family involvement and communication with the Resident and provides ample opportunities for family participation.

XIV. Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, this Agreement shall be read as if such unenforceable provision was not included and all other provisions of this Agreement shall continue in full force and effect.

XV. Governing Law

This Agreement shall be governed by and construed and interpreted under the laws of the State of Maryland, except as to its conflicts of laws principles.

XVI. Attorneys' Fees

In the event any action is brought by either party to enforce or interpret the terms of this Agreement, the prevailing party in such action shall be entitled to its costs and reasonable, attorneys' fees incurred therein from the non-prevailing party, in addition to such other relief as the court may deem appropriate.

XVII. Notices

All notices provided for or required by this Agreement shall be effective when personally delivered, or (i) three (3) business days after being deposited, postage prepaid and certified, return receipt requested in the U.S. mail or (ii) one (1) business day after being deposited with a reputable overnight courier service such as Federal Express or UPS for next business day delivery, addressed as follows:

To Somerford Place:	ToYou:
Annapolis Heritage Partners, LLC	Rita Ormond
c/o Somerford Corp.	613 Wayward Dr.
19642 Club House Road, Suite 620	Annapolis, MD 21401
Gaithersburg, MD 20886	
Attn: President	

* * * *

Attachment B
House Rules

1. To protect the health and safety of our residents and employees, Somerford Place maintains smoke-free buildings. Smoking is permitted only with a physician order and is limited to supervised, designated outdoor areas. Supervised alcohol use is permitted by the Resident only with physician and Director consultation.

2. Somerford Place encourages regular family involvement with each resident and will permit visitation 24-hours a day to the immediate family and/or primary caregiver. Residents may receive phone calls from 8:00 a.m. to 8:00 p.m. Emergency calls may be made 24-hours a day.

3. No medications or drugs may be brought unless the medications or drugs are labeled according to the requirements of state or federal law. This includes prescription medications as well as nonprescription drugs

such as vitamins, laxatives, antacids, skin creams and other items. NO medications or drugs may be brought into the facility unless they are delivered to and checked by the resident care coordinator, LPN or Executive Director.

4. No medications (including over the counter medications) may be stored in the resident's room.

5. Residents and visitors must exercise care when utilizing Somerford Place property and equipment and to follow all operating instructions, safety standards and policies to avoid damage to self, residents, employees and the property and premises.

6. Private duty personnel may be retained by the resident to enhance resident comfort rather than to replace the assistance to personal care given by Somerford Place. Those services must comply with the facility's policy for private duty personnel.

7. Any food or beverages brought into Somerford Place must be in accordance with the resident's prescribed diet and must be checked by the resident care staff. Items to be refrigerated must be labeled, dated and in a sealed container. Items that do not require refrigeration must be in a tightly closed container, Somerford Place reserves the right to remove food items or beverages from the resident's room if, in Somerford Place's opinion, a health or safety concern exists.

8. Somerford Place encourages its residents to shower or bathe at least twice per week. Somerford Place provides assistance for this if needed.

9. Somerford Place encourages its residents to maintain a home-like environment and will attempt to accommodate all reasonable requests to individualize resident rooms. For safety reasons, Somerford Place must ap-

prove any addition or rearrangement of furniture, hanging of pictures, posters or other such similar activities.

10. The use of electric blankets and extension cords are not permitted. All electrical equipment brought into the facility must be UL approved and inspected and approved by the Environmental Services Coordinator prior to use.

11. Personal TV and radios in resident looms shall be turned off or set to a volume which is not disruptive to other residents by 10:00 p.m.

12. Door alarms shall be turned off at 7:00 a.m. and turned on by 9:00 p.m., weather permitting.

* * * *

Attachment C
Resident Rights

Each resident shall have personal rights, which include, but are not limited to, the following:

1. To be accorded dignity in his/her personal relationships with staff, residents, and other persons.

2. To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.

3. To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances.

4. To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints including, but not limited to, the address and telephone number of the licensing agency.

5. To have the freedom of attending religious services or activities of his/her choice and to have visits from the

spiritual advisor of his/her choice. Attendance at religious services, whether in or outside the facility, shall be on a completely voluntary basis.

6. To leave or depart the facility at any time and to not be locked into any room, building, or facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents, nor does it prohibit with permission of the licensing agency, the barring of windows against intruders.[1]

7. To visit the facility prior to residence along with his/her family and responsible persons.

8. To have his/her family or responsible persons regularly informed by the facility of activities related to his/her care or services including ongoing evaluations, as appropriate to the resident's needs.

9. To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.

10. To be informed of the facility's policy concerning family visits and other communications with residents.

11. To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.

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[1] Somerford Place is considered a locked facility. A certificate of waiver has been granted by the Department of Social Services for this requirement. Only under supervision will residents be allowed outside the facility. Residents are not free to leave the facility at will for their own protection and safety.

APPENDIX Y

28 U.S.C. § 1251 ORIGINAL JURISDICTION

(a) THE SUPREME COURT SHALL HAVE ORIGINAL AND EXCLUSIVE JURISDICTION OF ALL CONTROVERSIES BETWEEN TWO OR MORE STATES.

(b) THE SUPREME COURT SHALL HAVE ORIGINAL BUT NOT EXCLUSIVE JURISDICTION OF:

(1) ALL ACTIONS OR PROCEEDINGS TO WHICH AMBASSADORS, OTHER PUBLIC MINISTERS, CONSULS, OR VICE CONSULS OF FOREIGN STATES ARE PARTIES;

(2) ALL CONTROVERSIES BETWEEN THE UNITED STATES AND A STATE;

(3) ALL ACTIONS OR PROCEEDING BY A STATE AGAINST THE CITIZENS OF ANOTHER STATE OR AGAINST ALIENS.

(JUNE 25, 1948, C. 646, 62 STAT. 927; SEPT. 30, 1978, PUB. L. 95-393, § 8(b), 92 STAT. 810)

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28 U.S.C. § 1291. FINAL DECISIONS OF DISTRICT COURTS

THE COURTS OF APPEALS (OTHER THAN THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT) SHALL HAVE JURISDICTION OF APPEALS FROM ALL FINAL DECISIONS OF THE DISTRICT COURTS OF THE UNITED STATES, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE, THE DISTRICT COURT OF GUAM, AND THE DISTRICT COURT OF THE VIRGIN ISLANDS, EXCEPT WHERE A DIRECT REVIEW MAY BE HAD IN THE SUPREME COURT. THE JURISDICTION OF THE UNITED STATES COURT OF AP-

PEALS FOR THE FEDERAL CIRCUIT SHALL BE LIMITED TO JURISDICTION DESCRIBED IN SECTIONS 1292(c) AND (d) AND 1295 OF THIS TITLE.

(JUNE 25, 1945, C. 646, 62 STAT. 929; OCT. 31, 1951, C. 655, § 48, 65 STAT. 726; JULY 7, 1958, PUB. L. 85-508, § 12(e), 72 STAT. 348; APR. 2, 1982, PUB. L. 97-164, TITLE I, § 124, 96 STAT. 36)

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28 U.S.C. § 1331. FEDERAL QUESTION

THE DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS ARISING UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES.

(JUNE 25, 1948, C. 646, 62 STAT. 930; JULY 25, 1958, PUB. L. 85-554, § 1, 72 STAT. 415; OCT. 21, 1976, PUB. L. 94-574, § 2, 90 STAT. 2721; DEC. 1, 1980, PUB. L. 96486, § 2(A), 94 STAT. 2369)

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42 U.S.C. § 1981. EQUAL RIGHTS UNDER THE LAW

(a) STATEMENT OF EQUAL RIGHTS

ALL PERSONS WITHIN THE JURISDICTION OF THE UNITED STATES SHALL HAVE THE SAME RIGHT IN EVERY STATE AND TERRITORY TO MAKE AND ENFORCE CONTRACTS, TO SUE, BE PARTIES, GIVE EVIDENCE, AND TO THE FULL AND EQUAL BENEFIT OF ALL LAWS AND PROCEEDINGS FOR THE SECURITY OF PERSONS AND PROPERTY AS IS ENJOYED BY WHITE CITIZENS, AND SHALL BE SUBJECT TO LIKE PUNISHMENT, PAINS, AND PENALTIES, TAXES, LICENSES, AND EXACTIONS OF EVERY KIND, AND TO NO OTHER.

(b) "MAKE AND ENFORCE CONTRACTS" DEFINED

FOR THE PURPOSE OF THIS SECTION, THE TERM "MAKE AND ENFORCE CONTRACTS" INCLUDE THE MAKING, PERFORMANCE, MODIFICATION, AND TERMINATION OF CONTRACTS, AND THE ENJOYMENT OF ALL BENEFITS, PRIVILEGES, TERMS, AND CONDITIONS OF CONTRACTUAL RELATIONSHIP.

(c) PROTECTION AGAINST IMPAIRMENT

THE RIGHTS PROTECTED BY THIS SECTION ARE PROTECTED AGAINST IMPAIRMENT BY NONGOVERNMENTAL DISCRIMINATION AND IMPAIRMENT UNDER COLOR OF STATE LAW.

APPENDIX Z

UNITED STATES SUPREME COURT RULE

PART III. JURISDICTION ON WRIT OF CERTIORARI

RULE 10. CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI

REVIEW ON A WRIT OF CERTIORARI IS NOT A MATTER OF RIGHT, BUT OF JUDICIAL DISCRETION. A PETITION FOR WRIT OF CERTIORARI WILL BE GRANTED ONLY FOR COMPELLING REASONS. THE FOLLOWING, ALTHOUGH NEITHER CONTROLLING NOR FULLY MEASURING THE COURT'S DISCRETION, INDICATE THE CHARACTER OF THE REASONS THE COURT CONSIDERS:

(a) A UNITED STATES COURT OF APPEALS HAS ENTERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER UNITED STATES COURT OF APPEALS ON THE SAME IMPORTANT MATTER; HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH A DECISION BY A STATE COURT OF LAST RESORT; OR HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, OR SANCTIONED SUCH A DEPARTURE BY A LOWER COURT, AS TO CALL FOR AN EXERCISE OF THIS COURTS SUPERVISORY POWER;

(b) A STATE COURT OR A UNITED STATES COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS NOT BEEN, BUT SHOULD BE, SETTLED BY THIS COURT, OR HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CON-

FLICTS WITH RELEVANT DECISIONS OF THIS COURT.

A PETITION FOR A WRIT OF CERTIORARI IS RARELY GRANTED WHEN THE ASSERTED ERROR CONSISTS OF ERRONEOUS FACTUAL FINDING OR THE MISAPPLICATION OF A PROPERLY STATED RULE OF LAW.

RULE 13. REVIEW ON CERTIORARI: TIME FOR PETITIONING

1. UNLESS OTHERWISE PROVIDED BY LAW, A PETITION FOR A WRIT OF CERTIORARI TO REVIEW A JUDGMENT IN ANY CASE, CIVIL OR CRIMINAL, ENTERED BY A STATE COURT OF LAST RESORT OR A UNITED STATES COURT OF APPEALS (INCLUDING THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES) IS TIMELY WHEN IT IS FILED WITH THE CLERK OF THIS COURT WITHIN 90 DAYS AFTER ENTRY OF THE JUDGMENT. A PETITION FOR WRIT OF CERTIORARI SEEKING REVIEW OF A JUDGMENT OF A LOWER STATE COURT THAT IS SUBJECT TO DISCRETIONARY REVIEW BY THE STATE COURT OF LAST RESORT IS TIMELY WHEN IT IS FILED WITH THE CLERK WITHIN 90 DAYS AFTER ENTRY OF THE ORDER DENYING DISCRETIONARY REVIEW.

2. THE CLERK WILL NOT FILE ANY PETITION FOR WRIT OF CERTIORARI THAT IS JURISDICTIONALLY OUT OF TIME. SEE, e.g., U.S.C. & 2101(c).

3. THE TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI RUNS FROM THE DATE OF ENTRY OF THE JUDGEMENT OR ORDER SOUGHT TO BE REVIEWED, AND NOT FROM THE ISSUANCE DATE OF THE MANDATE (OR ITS EQUIVALENT UNDER LOCAL PRACTICE). BUT IF A PETITION FOR REHEAR-

ING IS TIMELY FILED IN THE LOWER COURT BY ANY PARTY, THE TIME TO FILE THE PETITION FOR WRIT OF CERTIORARI FOR ALL PARTIES (WHETHER OR NOT THEY REQUESTED REHEARING OR JOINED IN THE PETITION FOR REHEARING) RUNS FROM THE DATE OF THE DENIAL OF THE PETITION FOR REHEARING OR, IF THE PETITION FOR REHEARING IS GRANTED, THE SUBSEQUENT ENTRY OF JUDGMENT.

4. A CROSS-PETITION FOR A WRIT OF CERTIORARI IS TIMELY WHEN IT IS FILED WITH THE CLERK AS PROVIDED IN PARAGRAPHS 1, 3, AND 5 OF THIS RULE, OR IN RULE 12.5.

HOWEVER A CONDITIONAL CROSS-PETITION (WHICH EXCEPT FOR RULE 12.5 WOULD BE UNTIMELY) WILL NOT BE GRANTED UNLESS ANOTHER PARTY'S TIMELY PETITION FOR WRIT OF CERTIORARI IS GRANTED.

5. FOR GOOD CAUSE, A JUSTICE MAY EXTEND THE TIME TO FILE A PETITION FOR WRIT OF CERTIORARI FOR A PERIOD NOT EXCEEDING 60 DAYS. AN APPLICATION TO EXTEND THE TIME TO FILE SHALL SET OUT THE BASIS FOR JURISDICTION IN THIS COURT, IDENTIFY THE JUDGMENT SOUGHT TO BE REVIEWED, INCLUDE A COPY OF THE OPINION AND ANY ORDER RESPECTING REHEARING, AND SET OUT SPECIFIC REASONS WHY AN EXTENSION OF TIME IS JUSTIFIED. THE APPLICATION MUST BE RECEIVED BY THE CLERK AT LEAST 10 DAYS BEFORE THE DATE THE PETITION IS DUE, EXCEPT IN EXTRAORDINARY CIRCUMSTANCES. FOR THE TIME AND MANNER OF PRESENTING THE APPLICATION, SEE RULE 21, 21, 30, AND 33.2. AN APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A WRIT CERTIORARI IS NOT FAVORED.

(AS AMENDED JAN. 11, 1999, eff. MAY 3, 1999)

EN BANC DETERMINATION

(a) WHEN HEARING OR REHEARING EN BANC MAY BE ORDERED A MAJORITY OF CIRCUIT JUDGES WHO ARE IN REGULAR ACTIVE SERVICE MAY ORDER THAT AN APPEAL OR OTHER PROCEEDING BE HEARD OR REHEARD BY THE COURT OF APPEALS EN BANC. AN EN BANC HEARING OR REHEARING IS NOT FAVORED AND ORDINARILY WILL NOT BE ORDERED UNLESS:

(1) EN BANC CONSIDERATION IS NECESSARY TO SECURE OR MAINTAIN UNIFORMITY OF THE COURT'S DECISION; OR

(2) THE PROCEEDING INVOLVES A QUESTION OF EXCEPTIONAL IMPORTANCE.

(b) PETITION FOR HEARING OR REHEARING EN BANC

(1) THE PETITION MUST BEGIN WITH A STATEMENT THAT EITHER:

(A) THE PANEL DECISION CONFLICTS WITH A DECISION OF THE UNITED STATES SUPREME COURT OR OF THE COURT TO WHICH THE PETITION IS ADDRESSED (WITH CITATION TO THE CONFLICTING CASE OR CASES) AND CONSIDERATION BY THE FULL COURT IS THEREFORE NECESSARY TO SECURE AND MAINTAIN UNIFORMITY OF THE COURT'S DECISIONS; OR

(B) THE PROCEEDING INVOLVES ONE OR MORE QUESTIONS OF EXCEPTIONAL IMPORTANCE, EACH OF WHICH MUST BE CONCISELY STATED; FOR EXAMPLE, A PETITION

MAY ASSERT THAT A PROCEEDING PRESENTS A QUESTION OF EXCEPTIONAL IMPORTANCE IF IT INVOLVES AN ISSUE OF WHICH DECISIONS CONFLICT WITH THE AUTHORITATIVE DECISIONS OF OTHER UNITED STATES COURTS OF APPEALS THAT HAVE ADDRESSED THE ISSUE.

FEDERAL RULE OF APPELLATE PROCEDURE

TITLE II. APPEAL FROM A JUDGMENT OR ORDER OF A DISTRICT COURT

RULE 3. APPEAL AS OF RIGHT - HOW TAKEN

a. FILING THE NOTICE OF APPEAL

(1) AN APPEAL PERMITTED BY LAW AS OF RIGHT FROM A DISTRICT COURT TO A COURT OF APPEALS MAY BE TAKEN ONLY BY FILING A NOTICE OF APPEAL WITH THE DISTRICT CLERK WITHIN THE TIME ALLOWED BY RULE 4. AT THE TIME OF FILING, THE APPELLANT MUST FURNISH THE CLERK WITH ENOUGH COPIES OF THE NOTICE TO ENABLE THE CLERK TO COMPLY WITH RULE 3(D).

(2) AN APPELLANT'S FAILURE TO TAKE ANY STEP OTHER THAN THE TIMELY FILING OF A NOTICE OF APPEAL DOES NOT AFFECT THE VALIDITY OF THE APPEAL, BUT IS GROUNDS ONLY FOR THE COURT OF APPEALS TO ACT AS IT CONSIDERS APPROPRIATE, INCLUDING DISMISSING THE APPEAL.

(3) AN APPEAL FROM A JUDGMENT BY A MAGISTRATE JUDGE IN A CIVIL CASE IS TAKEN IN THE SAME WAY AS AN APPEAL FROM ANY OTHER DISTRICT COURT JUDGMENT.

(4) AN APPEAL BY PERMISSION UNDER 28 U.S.C. § 1292(b) OR AN APPEAL IN A BANKRUPTCY CASE MAY BE TAKEN ONLY IN THE MANNER PRESCRIBED BY RULE 5 AND 6 RESPECTIVELY.

b. JOINT OR CONSOLIDATED APPEALS

(1) WHEN TWO OR MORE PARTIES ARE ENTITLED TO APPEAL FROM A DISTRICT COURT JUDGMENT OR ORDER, AND THEIR INTEREST MAKE JOINDER PRACTICABLE, THEY MAY FILE A JOINT NOTICE OF

APPEAL. THEY MAY PROCEED ON APPEAL AS A SINGLE APPELLANT.

(2) WHEN THE PARTIES HAVE FILED SEPARATE TIMELY NOTICES OF APPEAL, THE APPEALS MAY BE JOINED OR CONSOLIDATED BY THE COURT OF APPEALS.

c. CONTENTS OF THE NOTICE OF APPEAL

(1) THE NOTICE OF APPEAL MUST:

(A) SPECIFY THE PARTY OR PARTIES TAKING THE APPEAL BY NAMING EACH ONE IN THE CAPTION OR BODY OF THE NOTICE, BUT AN ATTORNEY REPRESENTING MORE THAN ONE PARTY MAY DESCRIBE THOSE PARTIES WITH SUCH TERMS AS "ALL PLAINTIFFS" "A, B, et al.," OR "ALL DEFENDANTS EXCEPT X."

(B) DESIGN THE JUDGMENT, ORDER, OR PART THEREOF BEING APPEALED; AND

(C) NAME THE COURT TO WHICH THE APPEAL IS TAKEN.

(2) A PRO SE NOTICE OF APPEAL IS CONSIDERED FILED ON BEHALF OF THE SIGNER AND THE SIGNER'S SPOUSE AND MINOR CHILDREN (IF THEY ARE PARTIES), UNLESS THE NOTICE CLEARLY INDICATES OTHERWISE.

(3) IN A CLASS ACTION, WHETHER OR NOT THE CLASS HAS BEEN CERTIFIED, THE NOTICE OF APPEAL IS SUFFICIENT IF IT NAMES ONE PERSON QUALIFIED TO BRING THE APPEAL AS REPRESENTATIVE OF THE CLASS.

(4) AN APPEAL MUST NOT BE DISMISSED FOR INFORMALITY OF FORM OR TITLE OF NOTICE OF APPEAL, OR FOR FAILURE TO NAME A PARTY

WHOSE INTENT TO APPEAL IS OTHERWISE CLEAR FROM THE NOTICE.

d. SERVING THE NOTICE OF APPEAL

(1) THE DISTRICT CLERK MUST SERVE NOTICE OF THE FILING OF A NOTICE OF APPEAL BY MAILING A COPY TO EACH PARTY'S COUNSEL OF RECORD—EXCLUDING THE APPELLANT'S ORDR, [sic] A PARTY IS PROCEEDING PRO SE, TO HE PARTY'S LAST KNOWN ADDRESS, WHEN A DEFENDANT IS A CRIMINAL CASE APPEAL. THE CLERK MUST ALSO SERVE A COPY OF THE NOTICE OF APPEAL ON THE DEFENDANT, EITHER BY PERSONAL SERVICE OR BY MAIL ADDRESSED TO THE DEFENDANT. THE CLERK MUST PROMPTLY SEND A COPY OF THE NOTICE OF THE APPEAL AND OF DOCKET ENTRIES—AND ANY LATE DOCKET ENTRIES—TO THE CLERK OF THE COURT OF APPEALS NAMED IN THE NOTICE. THE DISTRICT CLERK MUST NOTE, ON EACH COPY, THE DATE WHEN THE NOTICE ON APPEAL WAS FILED.

(2) IF AN INMATE CONFINED IN AN INSTITUTION FILES A NOTICE OF APPEAL IN THE MANNER PROVIDED BY RULE 4(c) THE DISTRICT CLERK MUST ALSO NOTE THE DATE WHEN THE CLERK DOCKETED THE NOTICE.

(3) THE DISTRICT CLERK'S FAILURE TO SERVE NOTICE DOES NOT AFFECT THE VALIDITY OF THE APPEAL. THE CLERK MUST NOTE ON THE DOCKET THE NAMES OF THE PARTIES TO WHOM THE CLERK MAILS COPIES, WITH THE DATE OF MAILING. SERVICE IS SUFFICIENT DESPITE THE DEATH OF A PARTY OR THE PARTY'S COUNSEL.

e. PAYMENT OF FEES. UPON FILING A NOTICE OF APPEAL, THE APPELLANT MUST PAY THE DISTRICT CLERK ALL REQUIRED FEES. THE DISTRICT CLERK

RECEIVES THE APPELLATE DOCKET FEE ON BEHALF OF THE COURT OF APPEALS.

(AS AMENDED APR. 30, 1979, eff. AUG. 1, 1979; MAR. 10, 1986, eff. JUL. 1, 1986; APR. 25, 1989, eff. DEC. 1, 1989; APR. 22, 1993, eff. DEC. 1, 1993; APR. 29, 1994, eff. DEC. 1, 1994; APR. 24, 1998, eff. DEC. 1, 1998.)

RULE 4. APPEAL AS OF RIGHT—WHEN TAKEN

(a) APPEAL IN A CIVIL CASE

(1) TIME FOR FILING A NOTICE OF APPEAL

(A) IN A CIVIL CASE, EXCEPT AS PROVIDED IN RULE 4(a)(B), 4(a), AND 4(c), THE NOTICE OF APPEAL REQUIRED BY RULE 3 MUST BE FILED WITH THE DISTRICT CLERK WITHIN 30 DAYS AFTER THE JUDGMENT OR ORDER APPEALED FROM IS ENTERED.

(B) WHEN THE UNITED STATES OR ITS OFFICER OR AGENCY IS A PARTY, THE NOTICE OF APPEAL MAY BE FILED BY ANY PARTY WITHIN 60 DAYS AFTER JUDGMENT OR ORDER APPEALED FROM IS ENTERED.

(2) FILING BEFORE ENTRY OF JUDGMENT. A NOTICE OF APPEAL FILED AFTER THE COURT ANNOUNCES A DECISION OR ORDER—BUT BEFORE THE ENTRY OF THE JUDGMENT OR ORDER—IS TREATED AS FILED ON THE DATE OF AND AFTER THE ENTRY.

(3) MULTIPLE APPEALS. IF ONE PARTY TIMELY FILES A NOTICE OF APPEAL, ANY OTHER PARTY MAY FILE A NOTICE OF APPEAL WITHIN 14 DAYS AFTER THE DATE WHEN THE FIRST NOTICE WAS FILED, OR WITHIN THE TIME

OTHERWISE PRESCRIBED BY THIS RULE 4(a) WHICHEVER PERIOD ENDS LATER.

(4) EFFECT OF A MOTION ON NOTICE OF APPEAL

(A) IF A PARTY TIMELY FILES IN THE DISTRICT COURT ANY OF THE FOLLOWING MOTIONS UNDER THE FEDERAL RULES OF CIVIL PROCEDURE, THE TIME TO FILE AN APPEAL RUNS FOR ALL PARTIES FROM THE ENTRY OF THE ORDER DISPOSING OF THE LAST SUCH REMAINING MOTION:

(i) FOR JUDGMENT UNDER RULE 50(b);

(ii) TO AMEND OR MAKE ADDITIONAL FACTUAL FINDINGS UNDER RULE 52(b), WHETHER OR NOT GRANTING THE MOTION WOULD ALTER THE JUDGMENT;

(iii) FOR ATTORNEY'S FEES UNDER RULE 54 IF THE DISTRICT COURT EXTENDS THE TIME TO APPEAL UNDER RULE 59:

(iv) TO ALTER OR AMEND THE JUDGMENT UNDER RULE 59:

(v) FOR RELIEF UNDER RULE 60 IF THE MOTION IS FILED NO LATER THAN 10 DAYS (COMPUTED USING FEDERAL RULE OF CIVIL PROCEDURE 6(a) AFTER THE JUDGMENT IS ENTERED.

(B)(i) IF A PARTY FILES A NOTICE OF APPEAL AFTER THE COURT ANNOUNCES OR ENTERS A JUDGMENT—BUT BEFORE IT DISPOSES OF ANY MOTION LISTED IN RULE 4(a)(A)—THE NOTICE BECOMES EFFECTIVE TO A JUDGMENT OR ORDER, IN WHOLE OR IN

PART, WHEN THE ORDER DISPOSING OF THE LAST SUCH MOTION IS ENTERED.

(ii) A PARTY INTENDING TO CHALLENGE AN ORDER DISPOSING OF ANY MOTION LISTED IN RULE 4(a)(A), OR A JUDGMENT ALTERED OR AMENDED UPON SUCH A MOTION, MUST FILE A NOTICE OF APPEAL, OR AN AMENDED NOTICE OF APPEAL—IN COMPLIANCE WITH RULE 3(c)—WITHIN THE TIME PRESCRIBED BY RULE MEASURED FROM THE ENTRY OF THE ORDER DISPOSING OF THE LAST REMAINING MOTION.

(iii) NO ADDITIONAL FEE IS REQUIRED TO FILE AN AMENDED NOTICE.

(5) MOTION FOR EXTENSION OF TIME.

(A) THE DISTRICT COURT MAY EXTEND THE TIME TO FILE A NOTICE OF APPEAL IF:

(i) THAT PARTY SHOWS EXCUSABLE NEGLECT OR GOOD CAUSE.

(B) A MOTION FILED BEFORE THE EXPIRATION OF THE TIME PRESCRIBED IN RULE 4(a)(1) OR (3) MAY BE EXPARTE UNLESS THE COURT REQUIRES OTHERWISE. IF THE MOTION IS FILED AFTER THE EXPIRATION OF THE PRESCRIBED TIME, NOTICE MUST BE GIVEN TO THE OTHER PARTIES IN ACCORDANCE WITH LOCAL RULES.

(6) REOPENING THE TIME TO FILE AN APPEAL.

THE DISTRICT COURT MAY REOPEN THE TIME TO FILE AN APPEAL FOR A PERIOD OF 14 DAYS AFTER THE DATE WHEN ITS ORDER TO REOPEN IS ENTERED, BUT ONLY IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED:

(A) THE MOTION IS FILED WITHIN 180 DAYS AFTER THE JUDGMENT OR ORDER IS ENTERED WITHIN 7 DAYS AFTER THE MOVING PARTY RECEIVES NOTICE OF THE ENTRY, WHICHEVER IS EARLIER;

(B) THE COURT FINDS THAT THE MOVING PARTY WAS ENTITLED TO NOTICE OF THE ENTRY OF THE JUDGMENT OR ORDER SOUGHT TO BE APPEALED BUT DID NOT RECEIVE WITHIN 21 DAYS AFTER ENTRY; AND

(C) THE COURT FINDS THAT NO PARTY WOULD BE PREJUDICED

(7) ENTRY DEFINED. A JUDGMENT OR ORDER IS ENTERED FOR PURPOSES OF THIS RULE 4(a) WHEN IT IS ENTERED IN COMPLIANCE WITH RULES 58 AND 79(a) OF FEDERAL RULES OF CIVIL PROCEDURE.

FEDERAL RULES OF CIVIL PROCEDURE

UNITED STATES CODE ANNOTATED
FEDERAL RULES OF CIVIL PROCEDURE
FOR THE UNITED STATES DISTRICT COURTS

VI. TRIALS

AMENDMENTS RECEIVED TO 05023003

RULE 50. JUDGMENT AS A MATTER OF LAW IN JURY TRIALS; ALTERNATIVE MOTION FOR NEW TRIAL CONDITIONAL RULING

(a) JUDGMENT AS A MATTER OF LAW

(1) IF DURING A TRIAL BY JURY A PARTY HAS BEEN FULLY HEARD ON AN ISSUE AND THERE IS NO LEGAL SUFFICIENT EVIDENTIARY BASIS FOR A REASONABLE JURY TO FIND FOR THAT PARTY ON THAT ISSUE, THE COURT MAY DETERMINE THE ISSUE AGAINST THAT PARTY AND MAY GRANT A MOTION FOR JUDGMENT AS A MATTER OF LAW AGAINST THAT PARTY WITH RESPECT TO A CLAIM OR DEFENSE THAT CANNOT UNDER THE CONTROLLING LAW BE MAINTAINED OR DEFEATED WITHOUT A FAVORABLE FINDING ON THAT ISSUE.

(2) MOTIONS FOR JUDGMENT AS A MATTER OF LAW MAY BE MADE AT ANY TIME BEFORE SUBMISSION OF THE CASE TO THE JURY. SUCH A MOTION SHALL SPECIFY THE JUDGMENT SOUGHT AND THE LAW AND THE FACTS ON WHICH THE MOVING PARTY IS ENTITLED TO THE JUDGMENT.

(b) RENEWING MOTION FOR JUDGMENT AFTER TRIAL; ALTERNATIVE MOTION FOR NEW TRIAL. IF, FOR ANY REASON THE COURT DOES NOT GRANT A

MOTION FOR JUDGMENT AS A MATTER OF LAW MADE AT THE CLOSE OF ALL THE EVIDENCE, THE COURT IS CONSIDERED TO HAVE SUBMITTED THE ACTION TO THE JURY SUBJECT TO THE COURTS LATER DECIDING THE LEGAL QUESTIONS RAISED BY THE MOTION.

THE MOVANT MAY RENEW ITS REQUEST FOR JUDGMENT AS A MATTER OF LAW BY FILING A MOTION NO LATER THAN 10 DAYS AFTER ENTRY OF JUDGMENT—AND MAY ALTERNATIVELY REQUEST A NEW TRIAL OR JOIN A MOTION FOR A NEW TRIAL UNDER RULE 59. IN RULING ON A RENEWED MOTION, THE COURT MAY:

(1) IF VERDICT WAS RETURNED:

(A) ALLOW THE JUDGMENT TO STAND,

(B) ORDER A NEW TRIAL, OR

(C) DIRECT ENTRY OF JUDGMENT AS A MATTER OF LAW; OR

(2) IF NO VERDICT WAS RETURNED;

(A) ORDER A NEW TRIAL, OR

(B) DIRECT ENTRY OF JUDGMENT AS A MATTER OF LAW

VII. JUDGMENT

AMENDMENTS RECEIVED TO 05-23-03

RULE 59. NEW TRIALS; AMENDMENT TO JUDGMENTS

(a) GROUNDS. A NEW TRIAL MAY BE GRANTED TO ALL OR ANY OF THE PARTIES AND ON ALL OR PART OF THE ISSUES (1) IN AN ACTION IN WHICH THERE HAS BEEN A TRIAL BY JURY, FOR ANY OF THE

REASONS FOR WHICH NEW TRIALS HAVE HERETOFORE BEEN GRANTED IN ACTIONS AT LAW IN THE COURTS OF THE UNITED STATES; AND (2) IN ANY ACTION TRIED WITHOUT A JURY, FOR ANY OF THE REASONS FOR WHICH REHEARING HAVE HERETOFORE BEEN GRANTED IN SUITS IN EQUITY IN THE COURTS OF THE UNITED STATES. ON A MOTION FOR A NEW TRIAL IN AN ACTION TRIED WITHOUT A JURY, THE COURT MAY OPEN THE JUDGMENT IF ONE HAS BEEN ENTERED, TAKE ADDITIONAL TESTIMONY, AMEND FINDINGS OF FACT AND CONCLUSIONS OF LAW OR MAKE NEW FINDINGS AND CONCLUSIONS, AND DIRECT THE ENTRY OF A NEW JUDGMENT.

(b) TIME OF MOTION. ANY MOTION FOR A NEW TRIAL SHALL BE FILED NO LATER THAN 10 DAYS AFTER ENTRY OF THE JUDGMENT.

(c) TIME FOR SERVING AFFIDAVITS. WHEN A MOTION FOR A NEW TRIAL IS BASED ON AFFIDAVITS, THEY SHALL BE FILED WITH THE MOTION. THE OPPOSING PARTY HAS TEN DAYS AFTER SERVICE TO FILE OPPOSING AFFIDAVITS, BUT THAT PERIOD MAY BE EXTENDED FOR UP TO 20 DAYS, EITHER BY THE COURT FOR GOOD CAUSE OR BY THE PARTIES' WRITTEN STIPULATION. THE COURT MAY PERMIT REPLY AFFIDAVITS.

(d) ON COURT'S INITIATIVE; NOTICE. SPECIFYING GROUNDS NO LATER THAN 10 DAYS AFTER ENTRY OF JUDGMENT, THE COURT, ON ITS OWN, MAY ORDER A NEW TRIAL FOR ANY REASON THAT WOULD JUSTIFY GRANTING ONE ON A PARTY'S MOTION. AFTER GIVING THE PARTIES NOTICE AND AN OPPORTUNITY TO BE HEARD, THE COURT MAY GRANT A TIMELY MOTION FOR A NEW TRIAL FOR A REASON NOT STATED IN THE MOTION. WHEN

GRANTING A NEW TRIAL ON ITS OWN INITIATIVE OR FOR A REASON NOT STATED IN A MOTION, THE COURT SHALL SPECIFY THE GROUNDS IN ITS ORDER.

(e) MOTION TO ALTER OR AMEND JUDGMENT. ANY MOTION TO ALTER OR AMEND A JUDGMENT SHALL BE FILED NO LATER THAN 10 DAYS AFTER THE JUDGMENT.

APPENDIX AA

Code of Federal Regulations

Title 42: Public Health

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

Subpart B—Requirements for Long Term Care Facilities

§ 483.10 Resident rights.

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

(a) *Exercise of rights.* (1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights.

(3) In the case of a resident adjudged incompetent under the laws of a State by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the resident's behalf.

(4) In the case of a resident who has not been adjudged incompetent by the State court, any legal-surrogate designated in accordance with State law may exercise the resident's rights to the extent provided by State law.

* * * *

(2) The resident or his or her legal representative has the right—

(i) Upon an oral or written request, to access all records pertaining to himself or herself including current clinical records within 24 hours (excluding weekends and holidays); and

* * * *

(iii) A posting of names, addresses, and telephone numbers of all pertinent State client advocacy groups such as the State survey and certification agency, the State licensure office, the State ombudsman program, the protection and advocacy network, and the Medicaid fraud control unit; and

* * * *

(11) *Notification of changes.* (i) A facility must immediately inform the resident; consult with the resident's physician; and if known, notify the resident's legal respresentative or an interested family member when there is—

(A) An accident involving the resident which results in injury and has the potential for requiring physician intervention;

(B) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

* * * *

(ii) The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is—

* * * *

(B) A change in resident rights under Federal or State law or regulations as specified in paragraph (b)(1) of this section.

(iii) The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member.

* * * *

(ii) The individual financial record must be available through quarterly statements and on request to the resident or his or her legal representative.

* * * *

(L) Specially prepared or alternative food requested instead of the food generally prepared by the facility, as required by §483.35 of this subpart.

* * * *

(3) Unless adjudged incompetent or otherwise found to be incapacitated under the laws of the State, participate in planning care and treatment or changes in care and treatment.

(e) *Privacy and confidentiality.* The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

(1) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident;

* * * *

(g) *Examination of survey results.* A resident has the right to—

(1) Examine the results of the most recent survey of the facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the facility. The facility must make the results available for examination in a place readily accessible to residents, and must post a notice of their availability; and

(2) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

* * * *

(i) *Mail.* The resident has the right to privacy in written communications, including the right to—

(1) Send and promptly receive mail that is unopened; and

(2) Have access to stationery, postage, and writing implements at the resident's own expense.

(j) *Access and visitation rights.* (1) The resident has the right and the facility must provide immediate access to any resident by the following:

* * * *

(v) The agency responsible for the protection and advocacy system for developmentally disabled individuals (established under part C of the Developmental Disabilities Assistance and Bill of Rights Act);

* * * *

(viii) Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident.

(2) The facility must provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(3) The facility must allow representatives of the State Ombudsman, described in paragraph (j)(1)(iv) of this section, to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with State law.

(k) *Telephone.* The resident has the right to have reasonable access to the use of a telephone where calls can be made without being overheard.

* * * *

§ 483.12 Admission, transfer and discharge rights.

(a) Transfer and discharge—

* * * *

(iii) The safety of individuals in the facility is endangered;

(iv) The health of individuals in the facility would otherwise be endangered;

* * * *

(vi) For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

* * * *

§ 483.13 Resident behavior and facility practices.

(a) *Restraints.* The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(b) *Abuse.* The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

(c) *Staff treatment of residents.* The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(1) The facility must—

(i) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;

* * * *

(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency).

State law (including to the State survey and certification agency) within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

* * * *

§ 483.15 Quality of life.

A facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(a) *Dignity.* The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(b) *Self-determination and participation.* The resident has the right to—

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;

(2) Interact with members of the community both inside and outside the facility; and

(3) Make choices about aspects of his or her life in the facility that are significant to the resident.

(c) *Participation in resident and family groups.* (1) A resident has the right to organize and participate in resident groups in the facility;

(2) A resident's family has the right to meet in the facility with the families of other residents in the facility;

(3) The facility must provide a resident or family group, if one exists, with private space;

(4) Staff or visitors may attend meetings at the group's invitation;

(5) The facility must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings;

(6) When a resident or family group exists, the facility must listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.

(d) *Participation in other activities.* A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(e) *Accommodation of needs.* A resident has the right to—

(1) Reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered; and

(2) Receive notice before the resident's room or roommate in the facility is changed.

(f) *Activities.* (1) The facility must provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident.

(2) The activities program must be directed by a qualified professional who—

(i) Is a qualified therapeutic recreation specialist or an activities professional who—

(A) Is licensed or registered, if applicable, by the State in which practicing; and

(B) Is eligible for certification as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body on or after October 1, 1990; or

(ii) Has 2 years of experience in a social or recreational program within the last 5 years, 1 of which was full-time in a patient activities program in a health care setting; or

(iii) Is a qualified occupational therapist or occupational therapy assistant; or

(iv) Has completed a training course approved by the State.

(g) *Social Services.* (1) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(2) A facility with more than 120 beds must employ a qualified social worker on a full-time basis.

(3) *Qualifications of social worker.* A qualified social worker is an individual with—

(i) A bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology; and

(ii) One year of supervised social work experience in a health care setting working directly with individuals.

(h) *Environment.* The facility must provide—

(1) A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;

(2) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;

(3) Clean bed and bath linens that are in good condition;

(4) Private closet space in each resident room, as specified in §483.70(d)(2)(iv) of this part;

(5) Adequate and comfortable lighting levels in all areas;

(6) Comfortable and safe temperature levels. Facilities initially certified after October 1, 1990 must maintain a temperature range of 71–81°F; and

(7) For the maintenance of comfortable sound levels.

* * * *

§ 483.20 Resident assessment.

The facility must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity.

* * * *

(g) *Accuracy of assessments.* The assessment must accurately reflect the resident's status.

(h) *Coordination.* A registered nurse must conduct or coordinate each assessment with the appropriate participation of health professionals.

(i) *Certification.* (1) A registered nurse must sign and certify that the assessment is completed.

(2) Each individual who completes a portion of the assessment must sign and certify the accuracy of that portion of the assessment.

(j) *Penalty for falsification.* (1) Under Medicare and Medicaid, an individual who willfully and knowingly—

(i) Certifies a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 for each assessment; or

(ii) Causes another individual to certify a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 for each assessment.

(2) Clinical disagreement does not constitute a material and false statement.

(k) *Comprehensive care plans.* (1) The facility must develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical,

* * * *

§ 483.25 Quality of care.

Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.

* * * *

(h) *Accidents.* The facility must ensure that—

* * * *

(2) Each resident receives adequate supervision and assistance devices to prevent accidents.

(i) *Nutrition.* Based on a resident's comprehensive assessment, the facility must ensure that a resident—

(1) Maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

* * * *

(l) *Unnecessary drugs*—(1) *General.* Each resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:

(i) In excessive dose (including duplicate drug therapy); or

(ii) For excessive duration; or

(iii) Without adequate monitoring; or

(iv) Without adequate indications for its use; or

(v) In the presence of adverse consequences which indicate the dose should be reduced or discontinued; or

(vi) Any combinations of the reasons above.

(2) *Antipsychotic Drugs.* Based on a comprehensive assessment of a resident, the facility must ensure that—

(i) Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; and

(ii) Residents who use antipsychotic drugs receive gradual dose reductions, and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs.

(m) *Medication Errors.* The facility must ensure that—

(1) It is free of medication error rates of five percent or greater; and

(2) Residents are free of any significant medication errors.

* * * *

§ 483.30 Nursing services.

* * * *

(iii) Have direct access to an exit corridor;

(iv) Be designed or equipped to assure full visual privacy for each resident;

(v) In facilities initially certified after March 31, 1992, except in private rooms, each bed must have ceiling suspended curtains, which extend around the bed to provide total visual privacy in combination with adjacent walls and curtains;

(vi) Have at least one window to the outside; and

* * * *

APPENDIX BB

United States Code Service
Lawyers Edition

[Filed May 30, 2001]

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42 USCS Public Heal and Welfare
§§ 1395z-1399 2001

All federal laws of a general and permanent nature arranged in accordance with the section numbering of the United States Code and the supplements is thereto.

* * * *

(ii) Free from restraints. Thc right to be free from physical or mental abuse, corporal punishment, Involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraint may only be imposed—

(I) to ensure the physical safety of the resident or other residents, and

(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

(iii) Privacy. The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

(iv) Confidentiality. The right to confidentiality of personal and clinical records and to access to current clinical

records of the resident upon, request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

(v) Accommodation of needs. The right—

(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

(II) to receive notice before the room or roommate of the resident in the facility is changed.

(vi) Grievances. The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(vii) Participation in resident and family groups. The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

(viii) Participation in other activities. The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(ix) Examination of survey results. The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

(x) Refusal of certain transfers. The right to refuse a transfer to another room within the facility, if a purpose of

the transfer is to relocate the resident from a portion of the facility that is not a skilled nursing facility (for purposes of tide XVIII [42 USCS §§ 1395 et seq.]) to a portion of the facility that is such a skilled nursing facility.

* * * *

(iii) Continuation of payments and oversight authority. Notwithstanding any other provision of this title [42 USCS §§ 1396 et sec. with respect to the residents described in clause (i)(I), a participation agreement of a facility described in clause (i) is deemed to continued in effect under such plan after the effective date of the facility's voluntary withdrawal from participation under the State plan for purposes of—

(I) receiving payments under the State plan for nursing facility services provided to such residents;

(II) maintaining compliance with all applicable requirements of the title [42 USCS §§ 1396 et seq.]; and

(III) continuing to apply the survey, certification, and enforcement authority provided under subsections (g) and (h) (including involuntary termination of a participation agreement deemed continued under this clause).

(iv) No application to new residents. This paragraph (other than subclause (III) of clause (i)) shall not apply to an individual who begins residence in a facility on or after the effective date of the withdrawal from participation under this subparagraph.

(3) Access and visitation rights. A nursing facility must—

(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;

(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident;

(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

(4) Equal access to quality care.

(A) In general. A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State plan for all individuals regardless of source of payment.

(B) Construction. (i) Nothing prohibiting any charges for non-medicaid patients. Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (I)(B) describing such charges.

(ii) No additional services required. Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State plan.

APPENDIX CC

Code of Maryland regulations

Title 10

DEPARTMENT OF HEALTH
AND MENTAL HYGIENE
201 West Preston Street
Baltimore, Maryland 21201

* * * *

C. If an agent, as defined in Regulation .02B(3) of this chapter, signs the contract, the agent is not, by signing the contract, accepting any responsibility for making payments from the agent's own personal funds, unless the agent does so voluntarily. The facility shall list separately in the contract any obligations voluntarily entered into by the agent, and the agent shall initial these obligations on the contract.

D. An agent who has not paid a current obligation for the resident's care may apply to the Medical Assistance Program for a determination of the funds available to pay for the cost of the resident's care.

E. An agent shall distribute any funds, including income or assets of the applicant or resident that the Medical Assistance Program has determined to be available, to pay for the cost of the resident's care in the facility.

F. An agent shall seek, on behalf of the applicant or resident, all assistance from the Medical Assistance Program that may be available to the applicant or resident.

G. The Attorney General may impose civil money penalties against an agent who wilfully or with gross negligence violates the requirements of this regulation as follows:

(1) An agent who wilfully or with gross negligence violates §E of this regulation is subject to a civil money penalty not less than the amount of funds subject to the violation; and

(2) An agent who wilfully or with gross negligence violates §F of this regulation is subject to a civil money penalty not exceeding $10,000.

.08 Resident's Rights and Services.

A. A nursing facility shall provide care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect, and in full recognition of the resident's individuality

B. A nursing facility may not interfere with a resident's exercise of rights guaranteed under the Constitution or laws of the United States and Maryland.

C. A resident has the right to:

(1) Reside and receive services in a nursing facility with reasonable accommodations of individual needs and preferences, except when accommodations would endanger the health or safety of the resident or other residents;

(2) Receive treatment, care, and services that are in an environ rent that promotes maintenance or enhancement of each resident's quality of life;

(3) A dignified existence, self-determination, and communicatior with and access to individuals and services inside and outside the nursing facility;

(4) Be free of interference, coercion, discrimination, or reprisa from the nursing facility when exercising the resident's rights;

(5) Be free from:

(a) Physical abuse;

(b) Verbal abuse;

(c) Sexual abuse;

(d) Physical or chemical restraints imposed for purposes of discipline or convenience;

(e) Mental abuse; and

(f) Involuntary seclusion;

(6) Choose an attending physician, if the physician agrees to abide by nursing facility policies and procedures, and the regulation in this chapter;

(7) Choose a pharmacy to obtain medications as set forth in COMAR 10.07 02.133(3) and D(3);

(8) Be fully informed in advance about care and treatment, and proposed changes in that care or treatment;

(9) Participate in planning care and treatment, or changes care or treatment;

(10) Seek advice from the resident care advisory committee concerning the options for medical care and treatment for an individual with a life-threatening condition in accordance with Health-General Article, §19-370 et seq., Annotated Code of Maryland;

(11) Consent to or refuse treatment, including the right to acc or reject artificially administered sustenance in accordance with State law;

(12) Self-administer drugs if the interdisciplinary team determines that the practice is safe;

(13) Access the resident's records within 24 hours, exclude weekends and holidays. upon an oral or written request;

(14) Purchase copies of all or part of the resident's records upon request by giving 2 working days advance notice to the nursing facility;

(15) Approve or refuse the release of personal and clinical records to an individual outside the nursing facility unless:

(a) Otherwise provided by Health-General Article, §4-301 et seq., Annotated Code of Maryland; or

(b) The release is required by law;

(16) Personal privacy, including:

(a) Confidentiality of personal records; and

(b) Privacy in:

(i) Medical treatment, and

(ii) Personal care;

(17) Privacy in the resident's room, including the right to have nursing facility staff knock before entering the resident's room;

(18) Privacy in written communication, including the right to:

(a) Send and receive mail promptly without it being opened by anyone other than the resident, except when the resident requests assistance; and

(b) Have access to stationery, postage, and writing implements at the resident's own expense;

(19) Reasonable access to the private use of a telephone;

(20) Meet or visit privately with any individual the resident chooses, subject to reasonable restrictions by the nursing facility on visiting hours and places;

(21) Visit or meet privately with the following, to whom the nursing facility shall provide reasonable access:

(a) A representative of the Secretary of the U.S. Department of Health and Human Services;

(b) A representative of the Department;

(c) The resident's personal physician;

(d) A representative of the State Long-Term Care Ombudsman Program;

(e) The agency responsible for advocacy and protection of developmentally disabled and mentally ill individuals in Maryland; or

(22) Visit privately with the resident's spouse;

(23) Consent or deny consent to all visits, and may deny or with draw consent at any time;

(24) Examine the results of the most recent federal and State surveys, including the annual survey and any subsequent complaint investigations, not otherwise prohibited by law, of the nursing facility and any plans of correction prompted by these surveys;

(25) Receive notice before the resident's roommate is changed and, to the extent possible, have input into the choice of roommate;

(26) Voice grievances, including those about treatment or care that is or fails to be furnished, and recommend changes in policies am services, to the staff or administrator of the nursing facility, the Licensing and Certification Administration, the Office on Aging, of any other person, without fear of reprisal, restraint, interference coercion, or discrimination;

(27) Prompt efforts by the nursing facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

(28) Contact and receive information from agencies acting as client advocates;

(29) Refuse to perform services for the nursing facility;

(30) Perform services for the nursing facility if the resident chooses, only if:

(a) The nursing facility has documented the need or desire n work in the plan of care;

(b) The plan specifies the nature of the services to be performs and whether the services are voluntary or paid;

(c) Compensation for paid services is at or above prevailing rates; and

(d) The resident agrees in writing to the work arrangement described in the plan of care, and the contract is part of the resident's record;

(31) Share a room with the resident's spouse if both spouses consent and it is not medically contraindicated; and

(32) Participate in social, religious, and community activities if the activities do not interfere with the rights of other residents in the nursing facility.

D. A resident has the right to participate or refuse to participate in experimental research. When the resident is incapable of making this decision, the resident's appropriate representative may consent for participation in therapeutic experimental research only.

E. The resident or, when applicable, the resident's health care representative, has the right to be fully informed, in a language that the resident or representative can reasonably be expected to understand, of complete and current information about the resident's diagnosis, treatment, and prognosis, unless it would be medically inadvisable as documented by the resident's attending health care provider. If this determination has been made, the health care provider shall, upon written request:

(1) Make a summary of the undisclosed portion of the medical record available to the resident or health care representative;

(2) Insert a copy of the summary in the medical record of the resident;

(3) Permit examination and copying of the medical record by another health care provider; and

(4) Inform the resident or health care representative of the resident's or health care representative's right to select another health care provider.

F. Resident and Family Groups.

(1) A resident has the right to organize and participate in resident groups in the nursing facility.

(2) A resident's family has the right to meet in the nursing facility with the families of other residents.

(3) Staff or other visitors may attend meetings only at the group's invitation.

.09 Implementation of Residents' Bill of Rights.

A nursing facility shall:

A. Ensure that:

(1) The rights of residents as set forth in the Residents' Bill of Rights are protected, including but not limited to informing each resident of the resident's right to select a physician and pharmacy of the resident's choice;

(2) Employees of the nursing facility are trained to:

(a) Respect and enforce the Residents' Bill of Rights and th nursing facility's policies and procedures that implement the Rea dents' Bill of Rights, and

(b) Protect the rights of residents;

(3) The nursing facility's policies and procedures implement a. rights of the residents as set forth in:

(a) Health-General Article, §419-343—19-347 and 19-349—19 -352, Annotated Code of Maryland,

(b) Title XIX of the Social Security Act,

(c) 42 CFR §483.10 et seq., and

(d) The regulations of this chapter; and

(4) The nursing facility's policies comply with the requirements of federal and State law concerning advance directives, including but not limited to:

(a) If an applicant is incapacitated or is incapable of informing the nursing facility whether the applicant has executed an advance directive, the facility may provide advance directive information the resident's health care representative, and

(b) Once the resident is no longer incapacitated, the facility shall provide the advance directive information to the reside directly at the appropriate time;

B. Post conspicuously in a public place accessible to residents:

(1) The Residents' Bill of Rights in large, clearly readable type

(2) The nursing facility's complaint procedures in large, clear readable type;

(3) The nursing facility's statement of deficiencies for the most recent survey and any subsequent complaint investigations conducted by federal or State surveyors and any plans of correction in effect respect to the survey or complaint investigation findings; and

(4) Signs provided by the Department to notify the visiting public and residents:

(a) That complaints may be made to the Department or to Office,

(b) How to report an instance of abuse of a resident to the Department, the Office, or law enforcement agencies, and

(c) How to file a complaint with State agencies and client advocacy agencies, such as the Licensing and Certification Administration, the Office on Aging, the Older Americans Act Legal Services providers, the Maryland Dis-

abilities Law Center, State Medicaid Fraud Unit, and the Legal Aid Bureau, Inc.;

C. Establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals, regardless of source of payment;

D. Provide each resident and, if applicable, the resident's appropriate representative or interested family member, with a written description of the resident's legal rights, including a:

(1) Description of the manner of protecting resident funds; and

(2) Statement that the resident may file a complaint with the Department or the Office concerning resident abuse, neglect, misappropriation of resident property in the nursing facility, and noncompliance with advance directive requirements;

E. Place the name, address, and telephone number of the physician who is responsible for the resident's care within easy access of the resident;

F. Inform the resident and the appropriate legal representative, or interested family member, and promptly consult with the resident's physician if any of the following incidents occur:

(1) An accident involving the resident which results in injury;

(2) A significant change in the resident's physical, mental, or psychosocial status;

(3) A need to alter treatment significantly; or

(4) A decision to transfer or discharge the resident from the nursing facility;

G. Consistent with State and federal confidentiality laws and, in a timely manner, notify a resident and, if applicable, the resident's representative or interested family member, of any:

(1) Change in condition;

(2) Adverse event that may result in a change in condition;

(3) Outcome, of care that results in an unanticipated consequence; and

(4) Corrective action, if any;

H. Notify the resident and, when applicable, the appropriate representative, or interested family member, when there is a change in:

(1) Room or roommate assignment;

(2) The Residents' Bill of Rights; or

(3) Federal or State law and regulations relating to residents' rights;

I. Record and update the address and phone number of the resident's representatives and interested family members;

J. Permit representatives of the State Long-Term Care Ombudsman Program to accomplish their responsibilities, as set forth in 42 U.S.C. §3058g, the State Long-Term Care Ombudsman Program;

K. Encourage the activities of resident and family groups by:

(1) Providing the residents and their families with private space for meetings;

(2) Designating a staff person to provide assistance and respond to written requests from residents and their families;

(3) Listening to the views of residents and their families;

(4) Acting upon the grievances and recommendations of residents .and their families concerning proposed policy and operational decisions affecting resident care and life in the nursing facility; and

(5) Advising resident and family groups of the disposition of their grievances and recommendations;

L. Educate staff, residents, representatives, and interested family members on advance directives;

M. When applicable, promptly provide the Medical Assistance Program with all required information in its possession; and

N. Provide copies of clinical records upon request, based on the following charges:

(1) A fee for copying and mailing not exceeding 50 cents per page;

(2) A discretionary fee not to exceed $15 for record retrieval and preparation;

(3) The actual cost of postage and handling of the copies; and

* * * *

APPENDIX DD

§ 10-702. Communications.

(a) *Correspondence.*—

(1) Subject to any reasonable limitation that a facility imposes, each individual in the facility shall have access, at all reasonable hours, to writing instruments, stationery, and postage and may use them to write to anyone.

(2) The correspondence of the individual shall be sent to the addressee without delay, and except under the direction of the addressee, without being opened.

(b) *Telephone.*—Each individual in a facility shall have reasonable access to a telephone. However, an individual may not telephone anyone who has given the facility written notice of being unwilling to be telephoned.

(c) *Restrictions.*—

(1) If, for medical reasons, an individual's access to correspondence, writing instruments, or telephones is limited, the limitation shall be:

(i) Signed by a physician and the reasons for the limitation and the date on which the limitation expires made a /permanent part of the individual's record; and

(ii) Reviewed every 30 days if the limitation remains in effect.

(2) If the attending physician believes that, because of the condition of an individual, another individual should be permitted to be present when writing instruments are used, the permission and the reasons for the permission shall be:

(i) Signed by the attending physician;

(ii) Dated as to when the permission expires;

(iii) Made a permanent part of the individual's record; and

(iv) Reviewed every 30 days if the permission remains in effect.

[An. Code 1957, art. 59, § 50; 1982, ch. 21, § 2; ch. 371; 1983, ch. 405, § 2.]

APPENDIX EE

Title 10—DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 21—MENTAL HYGIENE REGULATIONS

Chapter 09—Patients' Rights to Visitors

Authority: Health-General Article, §§10-101(e) and 10-703, Annotated Code of Maryland

.01 Scope.

These regulations govern the rights of patients in all facilities as defined in Health-General Article, §§10-101(e) and 10-703, Annotated Code of Maryland. Pursuant to Health-General Article, § 10-703, and for the safety and well-being of patients, their visitors and staff members, all of these facilities shall provide public notice to patients, family members, and friends of the hours allowed for visiting on facility grounds and the conditions under which visiting is permitted.

.02 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Mental Hygiene Administration.

(2) "Attorney" means a person licensed to practice law or the attorney's agent.

(3) "Clergy" means an official of a recognized church, religious society, or congregation of any sect, order, or denomination.

(4) "Disorderly manner" means conduct as defined by Criminal Law Article, § 10-202, Annotated Code of Maryland.

(5) "Drugs" means any medically unauthorized substance as defined by Criminal Law Article, §5-101(f), Annotated Code of Maryland.

(6) "Facility" means any public or private hospital, clinic, or other institution that provides or purports to provide treatment or other services for a mental disorder, except an acute care general hospital that does not have a separately identified inpatient psychiatric service.

(7) "Patient" means any individual receiving care and treatment in a facility.

(8) "Physician" means an individual who is authorized to practice medicine under Health Occupations Article, Title 14, Annotated Code of Maryland.

(9) "Professional staff" means any clinical staff who is either licensed or certified in a health care field or clinical staff in charge of a residential area.

(10) "Visitor" means a person who is coming to see a patient and is not acting as an agent of the facility or the Department of Health and Mental Hygiene.

.03 Facility Visitation and Visiting Hours.

A. All facilities shall provide a conspicuously posted notice to patients, family members, and friends of the hours allowed for visiting on facility grounds and the conditions under which visiting is permitted.

B. Visitation procedures and visiting hours shall be reasonable and each facility shall allow for visiting hours for at least 1 hour per day for each day of the week.

C. Each facility administrator shall be responsible for ensuring that these regulations are available for review and shall post notice of the facility's visiting hours in a prominent location.

D. Visiting hours do not apply to the patient's clergy or attorney who may visit the patient at any reasonable hour.

E. Visiting hours do not apply during those times a person visits the patient at the request of the treatment team.

F. Patients who wish to visit with children under the age of 12 may request a suitable location from the staff for the visit.

.08 Documentation.

A. Incidents.

(1) Any visitor behavior that leads to removal of the visitor from the premises shall be documented.

(2) Any incident that requires police intervention shall be reported and documented in accordance with facility procedures.

(3) Whenever a visitor is removed from the facility as a result of their disorderly manner, the treatment team shall review the incident and determine what restrictions, if any, shall be placed on the individual's future visiting privileges.

(4) If restrictions are placed on an individual's future visiting privileges, the restrictions shall be subject to the requirements identified in Regulation .08B.

B. Patient Restriction.

(1) Visitation shall be restricted only for a medically justified reason, and may not be used as a means of punishment.

(2) The physician's order restricting patient visitation rights shall:

(a) Be written as an order in the patient's permanent record;

(b) Be subject to ongoing review;

(c) Automatically expire after 30 calendar days; and

(d) Be rewritten, if necessary, subject to the provisions of this subsection.

(3) The rationale for the restriction shall be noted in the patient's permanent record and signed by the physician.

(4) Restrictions shall be documented in the patient's individualized treatment plan as defined in COMAR 10.21.03.

(5) A member of the treatment team shall inform the patient in a timely fashion of the restriction, its rationale, and the length of time the restriction is in effect.

(6) With the consent of the patient, visitors shall be informed by the facility's Clinical Director, or the Clinical Director's designee, that a patient's visits are restricted and the length of time that the restriction is in effect.

(7) Upon request and with the consent of the patient, a visitor shall receive written notification of the the restriction or restrictions.

APPENDIX FF

Maryland Code

HEALTH-GENERAL

TITLE 10.—MENTAL HYGIENE LAW

SUBTITLE 10.—PROHIBITED ACTS; PENALTIES; CIVIL LIABILITY

§ 10-1003. Interference with rights.

(a) *Prohibited.*—A person may not interfere knowingly with the rights of an individual under § 10-701, § 10-702, § 10-703, § 10-704, § 10-706, or § 10-707 of this title.

(b) *Penalty.*—A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

[An. Code 1957, art. 59, § 52; 1982, ch. 21, § 2; 1983, ch. 405, § 2; 1984, ch. 481.]

APPENDIX GG

MICHIE'S™ ANNOTATED CODE
OF THE PUBLIC GENERAL LAWS OF MARYLAND

[Filed May 11, 2005]

Health-General
ENACTED BY CHAPTER 21, ACTS 1982

Prepared by the Editorial Staff of the Publishers

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(Including Acts of the 2004 Regular and Special Sessions and annotations taken from decisions posted as of March 11, 2005.)

Part VI. Rights of Individuals.

§ 19-342. Hospitals.

(a) *Patient's bill of rights.*—Each administrator of a hospital is responsible for making available to each patient in the hospital a copy of the patient's bill of rights that the hospital adopts under the Joint Commission on Accreditation of Hospitals' guidelines.

(b) *Same—Statement.*—The patient's bill of rights shall include a statement that *a patient has a right to expect and receive appropriate assessment, management, and treatment of pain as an integral component of the patient's care. (An. Code 1957, art. 43, § 565F; 1982, ch. 21, § 2; 2002, ch. 368, § 1.)

Effect of amendments.—Chapter 368, Acts 2002, effective Oct. 1, 2002, added (b).

§ 19-343. Related institutions.

(a) *"Facility" defined.*—In this section and §§ 19-344 and 19-345 of this subtitle, "facility" means a related institution that, under the rules and regulations of the Department, is a comprehensive care facility or an extended care facility.

(b) *Policy.*—(1) The General Assembly intends to promote the interests and well-being of each resident of a facility.

(2) It is the policy of this State that, in addition to any other rights, each resident of a facility has the following basic rights:

(i) The right to be treated with consideration, respect, and full recognition of human dignity and individuality;

(ii) The right to receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State and federal laws, rules, and regulations;

(iii) The right to privacy;

(iv) The right to be free from mental and physical abuse;

(v) The right to expect and receive appropriate assessment, management, and treatment of pain as an integral component of the patient's care;

(vi) The right to be free from physical and chemical restraints, except for restraints that a physician authorizes for a clearly indicated medical need;

(vii) The right to receive respect and privacy in a medical care program; and

(viii) The right to manage personal financial affairs.

(c) *Duties of facilities.*—Each facility shall:

(1) Post, conspicuously in a public place, the policy set forth in subsection (b) of this section and the provisions in §§ 19-344 (b) through (m), 19-345 and 19-346 (i) (2) of this subtitle;

(2) Give a copy of the policy and those provisions:

(i) On admission, to the resident;

(ii) To the guardian, next of kin, or sponsoring agency of the resident; and

(iii) To a representative payee of the resident;

(3) Keep a receipt for the copy that is signed by the person who received the copy; and

(4) Provide appropriate staff training to carry out the policy and those provisions. (An. Code 1957, art. 43, § 565C; 1982, ch. 21, § 2; ch. 371; 1982, ch. 389; 1988, ch. 452, § 2; 2002, ch. 368, § 1.)

Effect of amendments.—Chapter 368, Acts 2002, effective Oct. 1, 2002, inserted present (b) (2) (v) and redesignated the remaining paragraphs accordingly.

Nursing homes.—Nursing homes are included in the definition of "facility" in subsection (a), 75 Op. Att'y Gen. 235 (June 12, 1990).

Community was facility.—Nursing home portion of a continuing care retirement community was: (1) a related institution under § 19- 301(0) of this subtitle; (2) a nursing home under § 19-307(b) of this subtitle; (3) a facility under this section; (4) a comprehensive care facility under Md. Regs. Code tit. 1.0, § 07.02.01(6); and (5) a facility under § 19-345 of this subtitle, which participated in the Medicaid program, making it a Medicaid certified facility for purposes of § 19-345(b) of this subtitle and Md. Regs. Code tit. 10,

§ 09.10.01(14). Oak Crest Vill., Inc. v. Murphy, 379 Md. 229, 841 A.2d 816 (2004).

Examination of medical records.—The provisions of the patient's bill of rights do not prohibit the examination of medical records of private pay patients in nursing homes where required by law. Thus, if inspection of patient records by the Department of Health and Mental Hygiene was necessary for the performance of its legal duties, the patient's bill of rights would not prevent the Department from exercising its authority to inspect. 62 Op. Att'y Gen. 666 (1977).

* * * *

(i) Is not associated with the facility; or

(ii) Is associated with the facility, but does not have a demonstrated need for the information.

(h) *Spouses.*—If it is feasible to do so and not medically contraindicated, spouses who are both residents of the facility shall be given the opportunity to share a room.

(i) *Grievances.*—A resident of a facility alone or with other individuals is entitled to present any grievance or recommend a change in a policy or service to the staff or administrator of the facility, the Department of Aging, or any other person, without fear of reprisal, restraint, interference, coercion, or discrimination.

(j) *Communications.*—(1) Each facility shall place at the bedside of each resident the name, address, and telephone number of a physician who is responsible for the resident's care.

(2) A resident shall have access at any reasonable time to a telephone where the resident may speak privately.

(3) A resident shall have access to writing instruments, stationery, and postage.

(4) The correspondence of a resident shall be sent to the addressee without delay and without being opened.

(5) Every patient and resident may associate and communicate privately and without restriction with persons and groups of his choice on his own or their initiative at any reasonable hour.

(k) *Visitors.*—Each married resident of a facility shall have privacy during a visit by the spouse.

(l) *Personal effects.*—To a reasonable extent, a resident of a facility shall have the right to possess and use clothing and other personal effects and to have security for those effects.

(m) *Service prohibited.*—A resident of a facility may not be assigned to do any work for the facility without personal consent and without written approval of the attending physician of the resident.

(n) *Responses to requests.*—A resident of a facility shall receive a reasonable response from an administrator or staff to a personal request of the resident.

(o) *Privacy.*—(1) A resident of a facility shall enjoy privacy in the room of the resident.

(2) Unless the staff member knows that the resident is asleep, the member shall knock on the door before the member enters the room of the resident.

(p) *Responsibility for carrying out section.*—The administrator of a facility is responsible for carrying out this section.

(q) *Report of grievances.*—(1) A resident of a facility or the next of kin or guardian of the person of a resident may file a complaint about an alleged violation of this section.

(2) The complaint may be filed with the Department of Aging or the Department.

(3) The Secretary of Aging shall:

(i) Investigate the complaint; and

(ii) After the investigation, report the findings to the complainant.

(4) After receipt of the report, the complainant shall be given an opportunity for a hearing before the Department in accordance with the rules and regulations that the Department adopts.

(5) The Secretary of Aging or the Secretary's designee may request a hearing and act as a representative of the resident at the hearing under paragraph (4) of this subsection when:

(i) There is no guardian able and available or family member able, willing, and available; and

(ii) The resident consents.

(6) The Secretary of Aging or the Secretary's designee may, in any hearing under paragraph (4) of this subsection to which it is not a party under paragraph (5) of this subsection, take part as an interested party.

(r) *Exercise of rights.*—If a resident is adjudicated a disabled person, is found to be medically incompetent by the attending physician of the resident, or is unable to communicate with others, the rights of the resident may be exercised by:

(1) The next of kin of the resident;

(2) The guardian of the person of the resident;

(3) The sponsoring agency of the resident; or

(4) Unless the facility is the representative payee, the representative payee that the Social Security Administration designates for the resident. (An. Code 1957, art. 43, § 565C; 1982, ch. 21, § 2; ch. 371; 1983, ch. 583,

§ 2; 198f ch. 459, §§ 1, 2; 1988, chs. 271, 452; 1995, ch. 547; 1996, ch. 10 § 1; 1998, cii. 573, § 5; ch. 574, § 5: 2000. ch. 61, § 7; 2004, ch. 506.)

Effect of amendments.—Chapter 506, Acts 2004, effective Oct. 1, 2004, added (0(5).

Bill review letter.—Chapter 506, Acts 2004 (House Bill 556 and Senate Bill 352) was approved for constitutionality and legal sufficiency as the 'Patient's Plan of Care Form" is intended to complement, not to supplant, the decision-making processes already recognized by current law. (Letter of the Attorney General dated April 29, 2004.)

Examination of medical records.—The provisions of the patient's bill of rights do not prohibit the examination of medical records of private pay patients in nursing homes where required by law. Thus, if inspection of patient records by the Department of Health and Mental Hygiene was necessary for the performance of its legal duties, the patient's bill of rights would not prevent the Department from exercising its authority to inspect. 62 Op. Att'y Gen. 666 (1977).

Right to refuse medication or treatment.—This section does not authorize a surrogate decisionmaker to refuse artificially administered sustenance on behalf of a disabled resident of a nursing home. 73 Op. Att'y Gen. 162 (1988).

Subsection (r) does not authorize a surrogate decision maker to refuse medication or treatment on behalf of a patient. 73 Op. Att'y Gen. 162 (1988).

The right of a competent, terminally ill patient to refuse life-sustaining treatment outweighs the State's interests. 73 Op. Att'y Gen. 162 (1988).

"Do not resuscitate" (DNR) order.—Related institutions that handle chronic care cases may not require consent to the withholding or withdrawing of life-sustaining procedures or the entry of a DNR order as a condition of admission to the facility. 79 Op. Att'y Gen. 218 (May 3, 1994).

APPENDIX HH

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Abuse of a Resident.

(a) "Abuse of a resident" means:

(i) The nontherapeutic infliction upon a resident of physical pain or injury, for example, striking a resident; or

(ii) A persistent course of conduct intended to produce, or resulting in, mental or emotional distress to a resident, for example, verbal intimidation of a resident.

(b) "Abuse of a resident" does not mean the performance of an accepted medical procedure ordered by a physician or administered by another licensed health care professional practicing within the scope of the physician's or health care professional's license.

(2) "Abuse of funds" means the misappropriation of a resident's assets or income. Misappropriation includes spending the resident's assets or income:

(a) Against or without the resident's consent, or, if the resident is incapable of giving consent and has no agent with authority to give consent, when the expenditure is not necessary for the direct and immediate benefit and welfare of the resident; or

(b) For the use and benefit of a person other than the resident, if the resident or agent has not consented to the expense.

(3) "Agent" means a person who manages, uses, or controls the funds or assets that legally may be used to pay an applicant's or resident's share of costs or other charges for the facility's services.

(4) "Certified" means the designation attached to a nursing facility that has met the requirements for participation as a skilled nursing facility in the Medicare Program or as a nursing facility in the Medicaid Program.

(4-1) "Change in condition" means a significant change in the resident's physical, mental, or psychological status including, but not limited to:

(a) Life-threatening conditions such as heart attack or stroke;

(b) Clinical complications such as the:

(i) Development of a pressure sore;

(ii) Onset or recurrent periods of delirium;

(iii) Onset of recurrent urinary tract infection;

(iv) Onset of depression; and

(v) Onset of aggressive or inappropriate behavior;

(c) The need to discontinue a medication or treatment because of:

(i) Adverse consequences; or

(ii) The need to begin a new form of treatment;

(d) Evaluation at or admission to a hospital; or

(e) Accidents that result in injury having the potential for requiring a physician's intervention.

(5) "Chemical restraint" means use of a psychopharmacologic drug to control behavior and not otherwise required to treat medical symptoms.

(6) "Comprehensive care facility" means a nursing facility that admits residents suffering from disease or disabilities or advanced age, who require medical and nursing services rendered by or under the supervision of a registered nurse.

(7) "Consent" means an express agreement by a resident who is capable of making an informed decision or, in cases when the resident is not capable, by the resident's representative.

(8) "Department" means the Department of Health and Mental Hygiene.

(9) "Director" means the Director of the Office on Aging.

(10) "Disabled resident" means a nursing facility resident who lacks sufficient understanding or capacity to make or communicate a responsible or informed decision on health care or personal finances because of a physical or mental disability, or because of substance abuse.

(11) "Discharge" means the:

(a) Removal of a resident from a nursing facility when the releasing nursing facility is no longer responsible for the resident's care;

(b) Movement of a resident from a certified bed to a noncertified bed;

(c) Movement of a resident from a skilled nursing facility bed under the Medicare Program to a bed not certified under that Program; or

(d) Movement of a resident from a bed certified only for Medicaid to a distinct part of the facility that is a skilled nursing facility under the Medicare Program.

(12) "Emergency" means a situation in which the life, health, or safety of an individual is in imminent and serious jeopardy.

(13) "Extended care facility" means a nursing facility that:

(a) Provides treatment services for residents requiring inpatient care but who do not currently require continuous hospital services; and

(b) Admits residents who:

(i) Require extensive restorative or rehabilitative services, or

(ii) Have a terminal disease requiring extensive nursing care.

(14) Involuntary Transfer or Discharge.

(a) "Involuntary transfer or discharge" means a transfer or discharge of a resident that is initiated by a nursing facility without the consent of the resident or, when applicable, the resident's representative.

(b) "Involuntary discharge" includes a discharge as described in Regulation .12E of this chapter.

(15) "Licensee" means a person licensed by the Department to operate a comprehensive care facility or an extended care facility.

(16) "Licensing and Certification Administration" means the survey and licensing agency, a unit of the Department of Health and Mental Hygiene.

(17) "Neglect" means failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

(18) "Nursing facility" means a comprehensive care or extended care facility.

(19) "Office" means the Office on Aging.

(20) "Physical restraint" means a device, including material or equipment, attached or adjacent to a resident's body, that the resident cannot remove easily and that restricts the resident's freedom of movement.

(21) Private Pay.

(a) "Private pay" means a nursing facility's acceptance of payment from a source other than the Medical Assistance Program.

(b) "Private pay" includes reimbursement by the Medicare Program or other third-party insurer.

(22) Relocation.

(a) "Relocation" means the movement of a resident from one room to another within:

(i) The same Medicare-certified facility;

(ii) A Medicaid-only certified nursing facility; or

(iii) A licensed-only nursing facility.

(b) "Relocation" does not mean the movement of a resident if the effect of the movement is to move the resident from:

(i) The distinct part of the nursing facility that is a skilled nursing facility to a distinct part of the nursing facility that is not a skilled nursing facility; or

(ii) A bed that is certified for. Medicaid to a distinct part of the nursing facility that is a skilled nursing facility.

(23) "Representative" means a person referenced in Regulation .03 of this chapter.

(24) "Resident" means an individual who is admitted or remains in residence for overnight care in a nursing facility.

(25) "Resident funds" means the assets and income of a resident or nursing home applicant that are under the use, ownership, management, or control of the resident or resident's agent.

(26) "Residents' Bill of Rights" means the statement of basic rights of each resident of a nursing facility as set forth in:

(a) Health-General Article, §§19-343-19-347 and 19-349-19-352, Annotated Code of Maryland;

(b) Title XIX of the Social Security Act, 42 U.S.C. § 1396(5)(c);

(c) 42 CFR §483.10 et seq.; and

(d) The regulations in this chapter.

(27) "Transfer" has the meaning as described in §B(1 1) of this regulation.

* * * *

APPENDIX II

IN THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY

Case No. C-2002-83301

IN THE MATTER OF ETHEL E. PARKINSON

ANSWERS TO INTERROGATORIES

TO: RONALD PARKINSON

FROM: RITA ORMOND

Rita Ormond, by her attorneys, Thomas J. Gisriel and Hodes, Ulman, Pessin & Katz, P.A. answers the Interrogatories propounded to it by Ronald Parkinson and states as follows:

A. The information supplied in these Answers is not based solely upon the knowledge of the executing party, but includes the knowledge of the party's agents, representatives, and attorneys, unless privileged.

B. The word usage and sentence structure is that of the attorneys who in fact prepared these Answers and language does not purport to be the exact language of the executing party.

C. The Interrogatories have been interpreted and answered in accordance with the Maryland Rules of Procedure, plain English usage, and to the extent not specifically challenged by objection, the definitions and instructions included with the Interrogatories.

Answers and Interrogatories

1. Identify each person, other than a person to be called as expert witness at trial, having knowledge of information,

which refers or relates in any way to the issues in this action, and with respect to each such person, identify the information, which each such person is claimed to know or possess.

ANSWER: In addition to Rita Ormond, who is answering these Interrogatories, persons with knowledge include the following:

David B. Parkinson—son of Ethel E. Parkinson
Sale Representative
501 Kentmor
Stevensville MD 21666
410-643-1042

Has knowledge regarding matters set forth in Answers to Interrogatories Nos. 4.b, c, d, e, f-i, k, l; 5; 6; 8, parts of 9, 13, 14, 15, 18, and 19

Tracie Parkinson—daughter-in-law of Ethel E. Parkinson; wife of David B. Parkinson
501 Kentmor
Stevensville MD 21666
410-643-1042

Has knowledge regarding matters set forth in Answers to Interrogatories Nos. 4.b, c, d, e, f-i; 8, 9, 13, 15, 18 and 19

* * * *

13. Rita Ormond admits that, upon the advice of the Assistant Anne Arundel County Healthcare Ombudsman and the Executive Director of Somerford Place, she has instructed Somerford Place not to allow anyone to remove Ethel Parkinson from Somerford Place.

* * * *

These two individuals can confirm that my Mother was lucid at the time she signed the revised POA and the medical POA, that she was aware of her surroundings and circum-

stances, and that she signed the documents of her own free will.

Melissa Stewart
Executive Director
Somerford Place
2717 Riva Road
Annapolis MD 21401
410-224-7300

* * * *

ANSWER:

Life Passages—Care Consultants, Inc.
Karen S. Kauffman, PhD, RN, CRNP, CS
Geriatric Nurse Practitioner and President
PO Box 3882
Baltimore MD 21217
In-Home Assessment of Ethel E. Parkinson
Report dated August 14, 2002

Opinion: Ms. Parkinson has moderate-advanced dementia, probably of the vascular type and requires 24-hour supervision and care. Needs total assistance for medication administration; needs assistance dressing and bathing. Needs supervision and help cutting food. She is at great risk for drug overdosing, falls, poor nutrition and rapid decline of her already compromised cognitive and physical function.

Rita Ormond reserves the right to name additional experts and supplement this Answer to Interrogatory.

4. State in detail all reasons why you believe you would be a better guardian of the person and property of your mother, Ethel E. Parkinson, than your brother, Ronald Parkinson.

ANSWER:

a. I love my Mother and family very much. 1 have always been attentive to their needs; doing whatever I could to help them.

b. My brother, Ronnie, and other brothers Alfred and Gary, are fixated with keeping my mother in her home regardless of whether this is the best place for her. They have never been receptive to having her evaluated for her dementia or accepting professional advice on how best to care for her. They have shown no interest in any outside professional assistance nor have they shown any interest in evaluating her levels

* * * *

7. Where were the July 20, 2002 Advance Directive and Appointment of Health Care Agent and Power of Attorney executed by Ethel E. Parkinson and identify the witnesses and your relationship to them.

ANSWER:

The July 20, 2002 Advance Directive and Appointment of Health Care Agent and Power of Attorney executed by Ethel Peterson was executed at my home at 613 Wayward drive, Annapolis MD 21401. The witnesses were:

Catherine A. Lewis, Paralegal
Cynthia A. Rafferty, Paralegal

who are employed by the Office of the Attorney General at Housing and Community Development, 100 Community Place, Crownsville MD 21032. David B. Parkinson, (brother), William (Bill) Ormond (husband), and Kathryn E. Ormond (daughter) were also at the home when the documents were executed, but did not stay in the room at all times.

8. Identify all attorneys who have personally consulted with Ethel E. Parkinson regarding her execution of the July 20, 200 Advanced Directive and Appointment of Health Care Agent and Power of Attorney or any other legal matter and identifying nature of such legal matter, over the last year and whether such consultations were arranged by yourself or by your mother and whether you attending any such consultations.

ANSWER:

No attorneys consulted personally with my mother. I met with Michael Hodes, Esquire, on behalf of my Mother using the POA dated February 1998.

APPENDIX JJ

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

[Filed Feb. 11, 2005]

CASE NO.: 02-C-04-102234 IJ

RONALD PARKINSON,

Plaintiff,

v.

SOMERFORD CORPORATION,

Defendant.

SCHEDULING ORDER

In accordance with Md. Rule 2-504.1, it is this 7th day of FEBRUARY 2005, by the Circuit Court for Anne Arundel County,

ORDERED that the parties shall comply with the following provisions:

Each case shall be concluded in a timely and efficient manner pursuant the Civil Differentiated Case Management (DCM) Plan adopted by this Court as required by Md. Rule 16-202, which provides that only actions ready for trial will be assigned for trial and tried.

The deadlines and dates set forth herein are firm dates and may not be changed by the parties or counsel without the prior approval of the Administrative Judge or his designee, the Civil DCM Judge. The Court will not grant a continuance of any event, including Pretrial Conferences, by consent or because discovery or ADR has not been concluded. In the absence of a genuine emergency or other good cause, last minute continuances will not be granted.

All counsel are advised that in any dispute concerning whether counsel has complied with this Order, the Court will not be guided by any agreements made between counsel to modify this Order unless expressly approved by the Court. Failure to comply with the provisions of this Order may lead to the imposition of sanctions on the parties and/or their counsel which may include dismissal, entry of default or monetary sanctions, as may be appropriate.

1. Case Time Standard Deadline:07/30/06. Case must be concluded by this date.

2. Alternative Dispute Resolution: N/A

30 days before Pretrial Conference: 10/03/05 Deadline to conclude court-ordered ADR.

The parties and counsel shall participate in the following

Alternative Dispute Resolution

(A separate order to follow where appropriate):

[ ] Appointment of a Settlement Conference Officer (SCO);

[ ] Appointment of a Mediator; [ ] Retired Judge;

[ ] Arbitration; [ ] Other; [ ] None

Details:

_____

_____

_____

3. Amendments:

05/21/05 Deadline for any party seeking to add an additional party and/or amend a claim to file the appropriate pleading and serve the additional party.

4. Discovery:

04/21/05 Deadline for plaintiff(s) to disclose expert witnesses pursuant to Rule 2-402(f)(1).

05/21/05 Deadline for defendant(s) to disclose expert witnesses pursuant to Rule 2-402(f)(1).

06/20/05 Deadline for identification of rebuttal experts pursuant to Rule 2-402(f)(1).

09/03/05 Deadline for completion of all depositions, and other methods of oral and written discovery. (At least 30 days prior to date of Pretrial Conference).

Note: This deadline does not apply to de bene esse depositions.

07/05/05 Deadline to file any request for admissions of fact or genuineness of documents.

Discovery procedures must be initiated sufficiently in advance of the discovery deadline to provide the opposing party time to comply in accordance with Md. Rules Title 2, Chapter 400 and to permit a resolution of any discovery dispute within the deadline. The existence of a discovery dispute as to any matter will not justify delay in completing any other discovery. The filing of any dispositive motion or any motion for protective order, for sanctions or to compel discovery will not result in an extension of the discovery deadlines.

5. Computer Generated Evidence:

Any party intending to use computer-generated evidence shall give the notice required by Rule 2-504.3(b) at least 120 days prior to the scheduled Pretrial Conference.

6. Dispositive Pretrial Motions:

07/15/05 Deadline to file any motions for summary judgment or other dispositive motions. Note: This deadline shall not be affected by discovery being incomplete.

7. Motions in Limine:

The deadline for filing motions in limine will be 20 days prior to the trial date which will be set at the Pretrial Conference. These motions will generally. be determined by the trial, judge. If exceptional circumstances require that a motion in limine be resolved in advance of trial, the moving party shall file the motion by the deadline for dispositive pretrial motions, and shall, in a separate pleading, request advance resolution of the motion stating with particularity the reason why an advance ruling is necessary.

8. Pretrial and Settlement Conference:

11/02/05 Date of Pretrial and Settlement Conference to be held before A Judge of the Court, at 11:00 AM
Time estimate: 30 Minutes

A. The attorneys who will actually try the case, all parties and insurance representatives with full authority to settle the case, shall be present at the Pretrial Conference, prepared to discuss, in good faith, settlement of all issues in this case, unless excused by the DCM Judge or his designee. If any settlement terms must be approved by a claims supervisor, claims committee, government official, or other individual or individuals, that person or those persons with full authority must appear, in addition to the party or parties. All settlement discussions will be confidential and will not be admissible at trial. At the Pretrial Conference, each party and counsel must be prepared to discuss all aspects of the case including the matters set forth in Md. Rule 2-504.2(b).

B. Each party shall file a written statement addressing the matters listed in Md. 2-504.2(b) no later than five (5) days before the Pretrial Conference.

C. Counsel are required to discuss the issues in this case, including settlement, sufficiently in advance of the Pretrial

Conference in order to ensure that the conference is meaningful.

D. If a settlement is reached, the parties shall promptly file original settlement documents with the Clerk with a copy to the DCM office. Unless such documents are filed and all open costs are paid at least seven (7) days prior to the scheduled Pretrial Conference date, all parties, counsel and representatives must attend the Pretrial Conference.

9. Trial on the merits:

[ ] COURT [ ] JURY

Trial shall be scheduled at the time of the Pretrial/ Settlement Conference in accordance with Md. Rule 16-202 and the Civil DCM Plan adopted by this Court. This case will not be assigned a trial date unless all discovery is completed, all reasonable efforts at arriving at a settlement have been exhausted, all motions have been resolved and the case is ready to be tried.

10. Request for Accommodation/Interpreter

Please notify the Court Administrator (410-222-1404) as early as possible of any reasonable accommodation needed because of a disability or the need for an interpreter. Any other questions regarding this Order should be addressed to the Office of Civil Case Management (410) 222-1215.

11. Other Matters:

_____

_____

_____

Master in Chancery

Pamela L. North
PAMELA L. NORTH
JUDGE

Counsel acknowledge that they have received a copy of this Order and understand the deadlines set forth herein. Counsel and the parties also have been informed that this case must be concluded prior to the Case Management Deadline set forth herein. They have also been advised to review a copy of the Court's Civil Differentiated Case Management Plan which is available on the Court's web site at www.circuitcourt.org.

Attorney for Plaintiff	Attorney for Defendant
Attorney for	Attorney for

Civil Clerk to mail copies:

Somerford Corporation
Philip J Shafer, Esq.

APPENDIX KK

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

[Filed Nov. 3, 2005]

CASE NO.: C-2004-102234

RONALD M. PARKINSON,

Plaintiff,

vs.

SOMERFORD CORPORATION,

Defendants.

PRETRIAL ORDER

This Court having conducted a pretrial conference with counsel and the parties, in accordance with Md. Rule 2-5042, it is this November 2, 2005, by the Circuit Court for Anne Arundel County,

ORDERED that the parties shall comply with the following provisions:

Pursuant to the Civil Differentiated Case Management (DCM) Plan adopted by this Court as required by Md. Rule 16-202 *only actions ready for trial will be assigned for trial and tried.*

The deadlines and dates set forth herein are firm dates and may not be changed by the parties or counsel without the prior approval of the Administrative. Judge or his designee, the Civil DCM Judge, to prevent manifest injustice. In the absence of a genuine emergency or other good cause, last minute continuances will not be granted.

All counsel are advised that in any dispute concerning whether counsel has complied with this Order, *the Court will*

not be guided by any agreements made between counsel to modify this Order, unless expressly approved by the Court. Failure to comply with the provisions of this Order may lead to the imposition of sanctions against the parties and/or their counsel, which may include dismissal, entry of default or monetary sanctions as may be appropriate.

This case must be concluded by the Case Time Standard Deadline which is: July 30, 2006.

CASE SETTLED

1. The parties have reached a full and final resolution of all issues in this case as a result of which trial is not necessary. The settlement terms are as follows:

> The parties reached an agreement which was placed on the record. The agreement, as placed on the record, is incorporated herein by reference as a final order subject to enforcement.

* * * *

modifications can be made, if necessary.

7. Motions In Limine, and/or Pretrial Memoranda

Any Motions In Limine or pretrial memoranda must be filed no later than twenty days prior to the trial date.

8. Settlement

The Court does not over-book trials; therefore, if a settlement is reached, the parties shall promptly file *original* settlement documents with the Clerk with a copy to the DCM office. Unless such documents are filed at least seven (7) days prior to the trial date, all parties, counsel and representatives must appear on the trial date. Trial dates shall not be continued by consent pending the completion of a settlement. Trial dates may only be canceled or continued by the Civil DCM Judge.

9. Request for Accommodation/Interpreter

Please notify the Court Administrator (410) 222-1404 as early as possible of any reasonable accommodation needed because of a disability or the need for an interpreter. Any other questions regarding this Order should be addressed to the Office of Civil Case Management (410) 222-1215.

10. Any other matter

_____

_____

_____

Recommended by:

_____

Master in Chancery

/s/ Illegible
Judge

CIVIL CLERK to mail copies / Copies distributed by chambers:

Attorney for Plaintiff	*Attorney for Defendant*
Attorney for	*Attorney for*

APPENDIX LL

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

Case No. C-2002-83301

IN THE MATTER OF ETHEL E. PARKINSON

ORDER APPOINTING GUARDIAN OF
THE PERSON AND PROPERTY

This case having been heard on April 1-3, 2003 before the Circuit Court for Anne Arundel County, and this Court having considered the papers in the Court's file in this matter, testimony and exhibits, this Court finds by clear and convincing evidence that Ethel E. Parkinson lacks sufficient understanding or capacity to make or communicate responsible decisions concerning her person and property because of a disability as defined in Md. Code Ann. Estates & Trusts Article §§13-201 and 13-705, the nature of the disability being dementia. This Court further finds that the disabled person is unable to consent to the appointment of a guardian, that the disabled person needs a guardian and that no less restrictive form of intervention is available which is consistent with the person's welfare and safety.

The Court finds, after hearing, that the disabled person cannot be present because of physical or mental incapacity and that counsel for the disabled waived the right to be present. Counsel for the disabled waived a jury trial.

Therefore, it is, this 30th of April 2003, by the Circuit Court for Anne Arundel County,

ORDERED, that (*name*) Rita Ormond
(*address*) 613 Wayward Drive
(*telephone number*) 410-224-2756

be, and hereby is, appointed as Guardian of the Person and Property with all the rights, duties and powers set, forth in Md. Code Ann. Estates & Trusts Art. Sec. 13-206, 13-708, 15-102 and Md. Rules 10-206 and 10-305; and it is further

ORDERED, that the Guardian of the Property shall give a corporate bond to the State of Maryland in the sum of $70,000.00 with a surety or sureties to be approved by the Clerk of the Court for the faithful discharge of the guardian's duties; and it is further

ORDERED that the Guardian of the Person may consent to medical or other professional care, counsel, treatment, or service for the disabled; and it is further

ORDERED that this Court must authorize the Guardian to consent to any medical procedure that involves a substantial risk to the life of the disabled; and the withholding or withdrawal of any medical procedure that involves a substantial risk to the life of the disabled; and it is further

ORDERED that the Guardian of the Person must obtain Court approval for changing the classification of abode of the disabled person; and it is further

ORDERED that pursuant to Md. Rule 10-206, the Guardian of the Person shall file an annual report with the Trust Clerk within 60 days following April 3rd of each year Le, within 60 days of the anniversary date of this guardianship hearing, indicating the present place of residence of both the guardian and the disabled person, and the health and mental status of the disabled, the guardian's plan of care for the disabled, whether there is a need for continuation of the guardianship, any reason to change the guardian's powers, or if the guardianship should be ended; and it is further

ORDERED pursuant to Md. Rules 10-706 through 10-708, that the Guardian of the Property shall file with the Trust Clerk an inventory of all assets of the disabled person of which the guardian has knowledge no later than July 7, 2003 and

thereafter shall file annual accounting within (60) days of the annual anniversary date as set forth above; and it is further

ORDERED that the Guardian shall furnish a copy of all annual reports and inventories to the disabled person's children at the time of filing with the Trust Clerk; and it is further

ORDERED that the parties appear before the Court for review to exceed (1) hour on July 9, 2003 at 1:30 p.m which may include any need for medication as to conditions for access to the disabled person by family members light of visitation history it its reported impact on the disabled person.

ORDERED that the Guardian shall permit all of the children atilt disabled person to have full access to the medical records of the disabled person, shall seek, receive and consider input from all of the children of the disabled person before making any significant decisions regarding the health or medical care of the disabled person, and shall keep the children of the disabled person informed regarding doctor visits and developments in the health and medical care of the disabled person; and it is further

ORDERED that children of the disabled person shall be permitted to take the disabled person out of Somerford Place, the assisted living facility in which she resides, for brief periods for family visits, consistent with reasonable limitations established by the Guardian, after consultation with appropriate health care providers, provided that the family members are required to return the disabled person to Somerford Place immediately after the family visits and that they are hereby directed not to mitiate discussions as to possibly change of her residence with the disabled person.

/s/ Philip T. Caroom
JUDGE PHILIP T. CAROOM
Circuit Court for Anne Arundel County

APPENDIX MM

IN THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY

Case No. C-2002-83301

IN THE MATTER OF ETHEL E. PARKINSON

SUPPLEMENTAL ORDER APPOINTING GUARDIAN
OF THE PERSON AND PROPERTY

This case having come before the Court for a Review Hearing on July 9, 2003 and all parties and counsel being present, it is therefore this 5th day of September, 2003, by the Circuit Court for Anne Arundel County, Maryland.

ORDERED, that all medical providers, including but not limited to Hospice providers and assisted-living or nursing facilities, involved in the care of Ethel E. Parkinson, that upon request, shall release medical records to, and/or discuss medical issues with, the following individuals or their legal counsel: Ronald Parkinson, Gary Parkinson and Alfred Parkinson, III. The party requesting such information shall be responsible for any costs associated thereof, and it is further

ORDERED, that the Guardian shall not restrict, limit or influence in any way the examination, observation and/or evaluation of Ethel Parkinson by a medical professional and/or person or organization specializing in geriatric care as selected and arranged by Ronald Parkinson, Gary Parkinson, Alfred Parkinson, III or their legal counsel. The party arranging such examination, observation and/or evaluation shall be responsible for all expenses associated thereof.

/s/ Philip T. Caroom
PHILIP T. CAROOM
Judge Philip T. Caroom

Copies to:

Kristin D. Cawood, Esq.
Thomas C. Codd, Esq.
Thomas J. Gisriel, Esq.

APPENDIX NN

Past Official Calls Assisted Living 'Ticking Time Bomb'

I-Team Uncovers Files Detailing Potentially Dangerous Care

BALTIMORE—Assisted living facilities are supposed to provide a safe alternative to nursing homes.

But the former director of the state agency charged with overseeing those facilities called assisted living in Maryland "a ticking time bomb."

A four-month-long WBAL-TV 11 News I-Team investigation into assisted living facilities culminates in this week's reports.

WBAL-TV 11 News I-Team reporter Deborah Weiner said it was supposed to be care, in a loving, home setting. But what allegedly happened in a former assisted living center in Millersville, Md., is being called the worst of the worst in Maryland.

Paul Poteet's wife, Teresa, spent nearly two years at Millersville Home Care.

"I would call it a house of horrors," Poteet said. "They paint a beautiful picture, come to my place and (say) we give you good care—and they didn't."

It was the fall of 2003, when state inspectors descended on the home and found five out of the nine residents there with skin ulcers so far gone that one had developed gangrene and maggots.

Records show four malnourished residents were hospitalized and one 84-year-old woman died four days later.

Now, the center's owner—Erlinda Sarabia—joined a nurse in facing charges of neglect, even though a civil lawsuit against them was unsuccessful.

It is the first time state prosecutors sought to hold an assisted living owner criminally responsible.

"We have pled not guilty, we maintain her innocence and expect to prevail," said Neal Janey, Sarabia's attorney.

Unfortunately, the Millersville home is just one file in a stack of heart-wrenching documents the 11 News I-Team obtained from the state's Office of Healthcare Quality, the agency charged with monitoring assisted living since 1999.

The 11 News I-Team poured over six years of facility sanction surveys and found a consistent and troubling pattern of potentially dangerous care in assisted living centers statewide.

Weiner said the very people who have had oversight of this industry are among its strongest critics—including former state director Carol Benner.

"The biggest problem is the lack of appropriate staff and lack of appropriate care given to the frail elderly," Benner said. "That's a huge deal."

The state documents that the 11 News I-Team examined contained so many unsettling examples that Weiner said she found it hard to highlight just a few.

Weiner found numerous cases where staff was untrained and medicine was mismanaged.

Then, there are the horrors, like "locked in a boiler room" in Worton, Md., and "drool frozen to the sidewalk" in Adelphi, Md., where a resident wandered and died from the cold.

Weiner reported about an assistant living resident who lived in a now-vacant Baltimore home. That woman died from the heat one summer with "a body temperature of 108 degrees."

"It's beyond, sometimes, what you think people could do," said Wendy Kronmiller, the new acting director of the state's Office of Health Care Quality.

And there appears to be no link between cost and quality. The state told the 11 News I-Team it is now monitoring Springhouse, an upscale facility in Pikesville, Md.

One inspection this year found no evidence of training in fire and safety or basic first aid among five staff members. Springhouse said it would address that.

But a September inspection found problems at night in response to falls. This after one resident got an answering machine when she called for help.

A spokeswoman for Springhouse, who would not appear on camera, told the 11 News I-Team that the call-light system has been replaced, and they have hired a new nursing director.

Weiner said assisted living, by design, was supposed to be the un-nursing home—less institutional, less regulated.

But, state officials have concerns because it is attracting people who should be in nursing homes.

Assisted living facilities are not required by law to have doctors or nurses on staff daily. They are not even required to have staff awake at night. And, some are not required to train staff in how to handle aging issues like dementia.

Perhaps the greatest obstacle to ensuring safety is the number of state inspectors. There are 17 for 2,000 licensed facilities and the countless number of unlicensed homes—making the mandate of annual inspections impossible to meet.

"In assisted living, we are lucky if we are there every three years with the staff we have," Benner said.

"So, no one's minding the store?" Weiner asked.

"I would say accountability leaves a lot to be desired," Benner said.

APPENDIX OO

DEMAND FOR JURY TRIAL

PURSUANT TO MARYLAND RULE 2-325 JURY TRIAL, PLAINTIFF RONALD W. PARKINSON DEMAND FOR JURY TRIAL.

MARYLAND RULE 2-325 (a) ANY PARTY MAY ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHTS BY JURY BY FILING A DEMAND THEIRFOR IN WRITING EITHER AS A SEPARATE PAPER OR SEPARATELY TITLED AT THE CONCLUSION OF A PLEADING AND IMMEDIATELY PRECEEDING ANY REQUIRED CERTIFICATE OF SERVICE

JULY 1, 2005 RESPECTFULLY SUBMITTED,

/S/ Ronald W. Parkinson
RONALD W. PARKINSON
PLAINTIFF
548 ROCKWOOD COURT
ANNAPOLIS, MARYLAND 21401
(410) 224-3982

Dog slasher gets 3 years

e slit Casper's throat to get revenge on ex's mother

SHANTEE WOODARDS
Staff Writer

man who slit a dog's throat nact revenge on his former riend's mother was sen- ed to three years in prison erday, the maximum sen- e for the crime.

obert Lee Grim, 26, re- ned silent while Circuit ge Joseph P. Manck issued the sentence, which also includes five years of probation during which Grim will receive treatment for his drug addiction. Grim also received credit for 213 days he spent in jail waiting for trial.

Judge Manck said he was concerned about Grim's criminal history, which included assaults in his youth and drug possession as an adult. Grim told the judge that his parents are alcoholics and he used drugs with his mother.

"What worries me is that you've now progressed to cut a dog's throat and leave the dog at the house where your ex-girlfriend's mother lives,"

(See DOG, Page A14)

Courtesy photo

A man was sentenced to three years in prison yesterday for slashing the throat of Casper, a lab mix.

On Jan. 3, 2006, Grim and a friend, George M. Treas, found Casper sleeping on the porch of a home in Baltimore, which is where Grim was living at the time. They put the dog into a work van and drove it to a school not far from Ms. Cooke's home in Millersville. Grim slashed Casper's throat, drove him to Ms. Cooke's home and left the bleeding dog on Mr. front steps.

Residents saw a trail of blood starting in the parking lot of the Rockbridge Academy, about a mile away. A bloody belt was found in the grass nearby. Police said it appeared that Grim used the belt to hold Casper up on his hind legs to cut his throat.

Ms. Cooke had left her home at 5 [illegible] to drive Ms. Cantu to the airport. When she returned, shortly before 7 a.m., she saw a bloody rag and a pool of blood on her front step. The tires to her other car were slashed. Casper stumbled to a house a few doors down before collapsing. A neighbor found him and called 911. Casper was treated at Bay County Veterinary Hospital.

Casper's owner had previously given the dog to a nephew who let it walk around a neighborhood in Brooklyn, near the Anne Arundel County line. Casper has since recovered, but is still skittish around strangers, Ms. DiPetro said.

Ms. DiPetro dropped charges against Mr. Treas because he gave a full account of the attack and would have testified for the state if Grim had gone to trial. Mr. Treas also said he and Grim used heroin while driving around with the dog in the van.

Ms. Cooke and Ms. Cantu "are glad to put it behind them and are also relieved to know that he can't harm them anymore," Ms. DiPetro said. "They are very close to each other."

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DOG

(Continued from Page A1)

Judge Manck said. "Clearly, the juvenile system failed you. If we don't do something now, there's no telling where you'll end up."

Grim pleaded guilty in April to the charges for which he was sentenced yesterday. His attorney, David Harding, declined to comment.

The dog, a Labrador mix whose name is Casper, survived the attack, and the incident prompted an outpouring of more than $1,500 in donations for his medical expenses.

Marjorie Cooke, the victim, read aloud from a three-page statement. She said there was something "ominous" about Grim and she felt that her daughter wasn't safe with him.

"Mr. Grim's revenge was a mafia-style intimidation," Ms. Cooke said. "Mr. Grim is a dangerous man, and I base this on what my daughter knows about him and the action he inflicted upon that poor little dog."

Grim last saw his former girlfriend, Sue Cantu, on New Year's Eve 2004. They had been dating for a few months and Ms. Cantu, then 20, told him that her mother didn't want them to see each other anymore, said Assistant State's Attorney Kimberly DiPetro. Grim became angry and started calling Ms. Cooke names and Ms. Cantu ended the relationship.

Man gets 20 years in brutal slashing

Attacked woman when she ended relationship

By ERIC HARTLEY
Staff Writer

The woman had been dating Bernard Joseph Winn for a little over a year, but when he wanted things to get more serious, she resisted.

For one thing, he had a temper, as she'd found out a few times, and he seemed to be growing possessive.

One night in late November, he became angry and caused a scene when she danced with another man at a party. Finally, on Nov. 28, she agreed to let Winn come to her house in Riva. Her goal was to break it off, once and for all.

So when he showed up at her house, she told him she was going to start dating other people. Winn told her, "I have something for you in my car."

"I assumed it was going to be flowers, because he'd done that before," the woman, who asked that her name not be printed, recalled yesterday.

But when Winn came back, he was holding white gloves and a butcher knife.

Slipping the gloves on and glaring at her, he said more than once, "It's over."

As the woman begged for her life, Winn cornered her, ordering her to her knees. As she struggled, he stabbed her several times in the chest, throat and stomach.

"I knew that if I got down on my knees, I was going to die," she said.

She managed to get outside and ran for help, and Winn drove away, though he called 911 to confess what he'd done and was quickly arrested.

Yesterday a Circuit Court judge sentenced Winn, 51, to 20 years in prison for attempted first-degree murder. He pleaded guilty in April.

(See WINN, Page A7)

WINN

(Continued from Page A1)

Judge Joseph P. Manck noted the "savagery" of the crime, according to the prosecutor, and said of the victim, "She has a right to live without looking over her shoulder."

Her stomach was perforated, necessitating emergency surgery, and her throat needed 12 stitches, said Assistant State's Attorney Anastasia Prigge.

Ms. Prigge asked for a life sentence, but Judge Manck imposed 40 years and suspended half during the hearing in Annapolis.

Winn's lawyer, Gill Cochran, called the sentence "extremely harsh."

"The guy has absolutely no prior criminal record and has been employed as a custodian in the public schools for 24 years. It's such a tragedy," Mr. Cochran said. "There's no way we can condone what he did, but the simple fact is: Do we put a person in jail for 20 years for a first offense?"

Court records that confirm Winn, a longtime public-school custodian who lived in Bowie, had no prior charges or convictions in Maryland.

Mr. Cochran said he'll ask Judge Manck to reconsider the sentence or seek a three-judge panel's review.

He said Winn was in the midst of an alcohol-induced blackout at the time of the attack and has no memory of it.

The woman said that when Winn began attacking her, she begged him to think about her son and his own career.

When she escaped, she ran to a neighbor's house, where someone tried to stop the bleeding with a towel and called 911.

Meanwhile, Winn called police as he drove west on Route 50 in his Jeep Liberty, tossing the gloves and knife out as he went. Police arrested him at his house and found the knife and gloves by the road.

At a court hearing the next day, Ms. Prigge said, Winn told a judge he had "lost it."

He and the woman had met through a singles group, the attorneys said.

The woman, a counselor with a degree in social work, said she hadn't dated much since her divorce, being too busy with work and raising her son.

She said she has no lasting physical effects aside from nasty scars, which should heal eventually.

But there are other kinds of scars.

"Suddenly you can't look strangers in the eye because something might happen to you," she said. "I can't drive down my driveway if someone's behind me because I'm afraid they might come get me.

"It's a fear that just radiates into your life."

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NEIGHBORHOODS: STONEY CREEK ARTIST SHOWCASES WORK/B3

The Capital

Arundel Report

B

WEDNESDAY
Nov. 15, 2006

Crofton man gets jail for May beatings

But judge spares him state prison because of 'slight build'

By SHANTEÉ WOODARDS
Staff Writer

A Crofton man who participated in a brutal attack on three teenagers earlier this year received an 18-month sentence in the Jennifer Road Detention Center.

Circuit Court Judge Joseph P. Manck said yesterday he was reluctant to send 19-year-old William Kyle Bagbey to state prison because of his slight build.

Bagbey also was given five years probation, during which he will have to refrain from alcohol and undergo random drug testing. He is prohibited from having any contact with the victims. Two are 16 and one is 18.

"You're a young man and I just don't want to see you go down this path," Judge Manck said. "There is no excuse for senseless violence. You did this unprovoked."

Bagbey is the first person to be convicted in the May 5 attack. Police said that he was part of a group of five who got drunk at a party then kicked and punched three boys so badly that one suffered facial fractures and another lost consciousness.

Officers located Bagbey's page on the social networking site, MySpace.com, where he included pictures of some of his friends. The victims recognized

(See BEATINGS, Page B2)

Annapolis,

APPENDIX QQ

PETITION DOCKET

[Filed July 24, 2006]

No. 268, September Term, 2006

RONALD W. PARKINSON,

v.

SOMERFORD CORP., ANNAPOLIS HERITAGE PARTNERS, MELISSA STEWART, *et al.*

CSA No. 575, Sept. Term. 2006

Opinion filed: Pending Mandate issued:

Counsel for Petitioner:	Counsel for Respondent:
Ronald W. Parkinson, pro se 548 Rockwood Court Annapolis, MD 21401	Dale K. Cathell, Esq. 6225 Smith Avenue Baltimore, MD 21209

Copies to the Court: 8/25/06

Result: 9/15/06 Petition denied

No. 268	August 8, 2006 – Answer in opposition to Petition for writ of certiorari

PENDING IN CSA

PETITION DOCKET

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(C.C. Anne Arundel County
Manck, J.
#C-04-102234

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